WEST virginia legislature

2021 regular session

Committee Substitute

for

House Bill 2720

By Delegate Criss
By Request of the Department of Transportation

[Originating in the Committee on Government Organization; March 25, 2021]

A BILL to repeal §17-2A-24 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §5F-2-8; all relating to establishing a merit-based system for personnel administration for the agencies, authorities, boards, and commissions within the Department of Transportation; authorizing the Secretary of Transportation to establish a merit-based system; preserving existing due process protections in state law; requiring compliance with state law regarding nepotism, favoritism, discrimination, and ethics in the employment process; prohibiting actions with a negative effect on federal funding; requiring inter-agency cooperation; authorizing rule-making; setting an implementation date; and removing duplicative functions within the agency.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-8. Special merit-based personnel system Department of Transportation employees.

(a) In order to attract and retain employees in the Department of Transportation, the secretary of the department shall establish a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment. All appointments and promotions to positions shall be made solely on the basis of merit and fitness for the position.

(b) The merit system shall be founded on effective performance management principles to set clear goals, provide efficient and effective services for our citizens and to develop, appraise and reward employees for being responsible and preforming as required.

(c) Notwithstanding any provision of this code or rule to the contrary, employees and positions within the various agencies, boards, commissions, and divisions within the Department of Transportation currently governed by the provisions of §29-6-1 *et seq.* of this code shall on and after October 31, 2021, all be subject to the merit-based system. The department’s employees may be afforded due process protections through the existing provisions of the public employees grievance procedure or other means that assures all of the protections required by law.

(d) The Department of Transportation personnel administration system is not exempt from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the employment process.

(e) The Department of Transportation personnel administration system may not be applied in any manner that would disqualify the department or its agencies, boards, commissions, or divisions for eligibility for any federal funding or assistance.

(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take any action necessary to assist the department in completing this transition in an orderly and efficient manner.

(g) The Secretary of Transportation may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency, procedural, and interpretive rules to implement the provisions of this section.

(h) The implementation of the provisions of this section shall be completed by October 31, 2021.

**CHAPTER 17. ROADS AND HIGHWAYS.**

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS.**

**§17-2A-24. Special employment procedures for Division of Highways personnel.**

[Repealed.]

NOTE: The purpose of this bill is to allow the Secretary of the Department of Transportation to establish a merit-based personnel administration system for all of the department’s employees. The DOT will have until October 31, 2021, to establish the new system.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.