

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Senate Bill 486

BY SENATORS SWOPE, ROBERTS, SMITH, PLYMALE, AND

WOODRUM

[Passed April 8, 2021; in effect 90 days from passage (July 7, 2021)]

1 AN ACT to amend and reenact §5A-6-2, §5A-6-3, §5A-6-4, §5A-6-4b, §5A-6-4c, §5A-6-5, §5A-6-
2 6, §5A-6-7, and §5A-6-8 of the Code of West Virginia, 1931, as amended, all relating to
3 the Office of Technology; renaming the Chief Technology Officer; updating definitions;
4 updating authority of the Chief Technology Officer; continuing special fund; providing an
5 information technology governance structure for executive agencies; authorizing the Chief
6 Technology Officer to provide training; authorizing the Project Management Office to
7 review agency proposals for technology investment; providing criteria to evaluate
8 proposals; authorizing the Project Management Office to maintain an enterprise
9 technology portfolio; authorizing the Project Management Office to collect necessary data
10 to develop a technology portfolio; authorizing the Chief Technology Officer to establish an
11 advisory committee; and authorizing the Chief Technology Officer to request resources
12 and support from the federal government for cybersecurity and technology initiatives.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. OFFICE OF TECHNOLOGY.

§5A-6-2. Definitions.

1 As used in this article:
2 “Information systems” means a discrete set of information resources organized for the
3 collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
4 “Information technology” means any equipment or interconnected system or subsystem
5 of equipment that is used in the automatic acquisition, storage, manipulation, management,
6 movement, control, display, switching, interchange, transmission, or reception of data or
7 information.
8 “Technology services” means professional services designed to provide functions,
9 maintenance, and support of information technology devices, or services including, but not limited
10 to, computer systems application development and maintenance; systems integration and
11 interoperability; operating systems maintenance and design; computer systems programming;

12 computer systems software support; planning and security relating to information technology
13 devices; data management consultation; information technology education and consulting;
14 information technology planning and standards; and establishment of local area network and
15 workstation management standards.

16 “Telecommunications” means the preparation, transmission, communication, or related
17 processing of information by electrical, electromagnetic, electromechanical, electro-optical, or
18 electronic means.

19 “Chief Information Officer” means the person holding the position created in §5A-6-3 of
20 this code and vested with authority to oversee state spending units in planning and coordinating
21 information systems that serve the effectiveness and efficiency of the state and individual state
22 spending units, and further the overall management goals and purposes of government: *Provided*,
23 That reference to “Chief Technology Officer” in other articles of this code shall mean “Chief
24 Information Officer”.

25 “Technical infrastructure” means all information systems, information technology,
26 information technology equipment, telecommunications, and technology services as defined in
27 this section.

28 “Technology project” means a project where technology is a significant component and is
29 either valued at \$250,000 or more, or will involve sensitive or restricted data.

30 “Steering committee” means an internal agency oversight committee established jointly by
31 the Chief Information Officer and the agency proposing the project, which shall include
32 representatives from the Office of Technology and at least one representative from the agency
33 proposing the project.

34 “Technology portfolio” means a strategic management process documenting relationships
35 between agency missions and information technology and telecommunications investments.

**§5A-6-3. Office of Technology; Chief Information Officer; appointment and qualifications;
continuation of special fund.**

1 (a) The Office of Technology is created within the Department of Administration, to be led
2 by a Chief Information Officer, who shall be appointed by and serve at the will and pleasure of the
3 Governor. The Chief Information Officer shall have knowledge in the field of information
4 technology, experience in the design and management of information systems, and an
5 understanding of the special demands upon government with respect to budgetary constraints,
6 the protection of privacy interests, and federal and state standards of accountability.

7 (b) There is hereby continued in the State Treasury a special account to be known as the
8 Chief Technology Officer Administration Fund. All fees collected by the Chief Information Officer
9 pursuant to this article shall be deposited into the fund. Expenditures from the fund shall be made
10 by the Chief Information Officer for the purposes set forth in this article and are not authorized
11 from collections but are to be made only in accordance with appropriation by the Legislature and
12 in accordance with the provisions of §12-3-1 *et seq.* of this code and upon the fulfillment of the
13 provisions set forth in §11B-2-1 *et seq.* of this code: *Provided*, That the provisions of §11B-2-18
14 of this code do not operate to permit expenditures in excess of the spending authority provided
15 by the Legislature.

§5A-6-4. Powers and duties of the Chief Information Officer generally.

1 (a) With respect to all state spending units the Chief Information Officer may:

2 (1) Establish information technology governance to align technology management with
3 departmental and agency business goals, including, but not limited to:

4 (A) Standards necessary to support a unified approach to information technology across
5 the totality of state government, thereby assuring that the citizens and businesses of the state
6 receive the greatest possible security, value, and user experience from investments made in
7 technology;

8 (B) Standards relating to the exchange, acquisition, storage, use, sharing, and distribution
9 of data;

10 (C) Standards for the connectivity, interoperability, and continuity of technology for
11 government operations in times of disaster or emergency;

12 (2) Develop a mechanism for identifying those instances where information systems
13 should be linked and information shared, while providing for appropriate limitations on access and
14 the security of data;

15 (3) Create new technologies to be used in government, convene conferences, and
16 develop incentive packages to encourage the utilization of technology;

17 (4) Charge a fee to the state spending units for services provided under the provisions of
18 this article;

19 (5) Periodically evaluate the feasibility of subcontracting information technology resources
20 and services, and to subcontract only those resources that are feasible and beneficial to the state;

21 (6) Develop job descriptions and qualifications necessary to perform duties related to
22 information technology as outlined in this article;

23 (7) Provide information technology related training to facilitate efficient use of state
24 technology resources;

25 (8) Submit resource and support requests to the federal government to support technology
26 or cyber security initiatives or programs;

27 (9) Engage in any other activities as directed by the Governor; and

28 (10) Promulgate legislative rules, in accordance with the provisions of §29A-3-1 *et seq.* as
29 may be necessary to standardize and make effective the administration of the provisions of this
30 article.

31 (b) With respect to executive agencies, the Chief Information Officer may:

32 (1) Develop a unified and integrated structure for information systems for all executive
33 agencies;

34 (2) Establish, based on need and opportunity, priorities and timelines for addressing the
35 information technology requirements of executive agencies;

36 (3) Draw upon staff of other executive agencies for advice and assistance in the
37 formulation and implementation of administrative and operational plans and policies;

38 (4) Recommend to the Governor transfers of equipment and human resources from any
39 executive agency for the most effective and efficient uses of the fiscal resources of executive
40 agencies to modernize information technology investments;

41 (5) Provide guidance and services where feasible to support proper cleansing of electronic
42 data; and

43 (6) Develop an information technology recycling program to redistribute or reuse properly
44 cleansed technology equipment. Transfers and disposal of information technology equipment are
45 specifically exempt from the surplus property requirements enumerated in §5A-3-43, §5A-3-44,
46 §5A-3-45, and §5A-3-46 of this code.

47 (c) The Chief Information Officer may employ the personnel necessary to carry out the
48 work of the Office of Technology and may approve reimbursement of costs incurred by employees
49 to obtain education and training.

50 (d) The Chief Information Officer may oversee telecommunications services used by state
51 spending units for the purpose of maximizing efficiency to the fullest possible extent including
52 auditing telecommunications services and usage and negotiation of telecommunications
53 contracts.

54 (e) The Chief Information Officer may convene and chair an advisory committee made up
55 of a representative from each of the departments as identified in §5F-1-2 of this code, and any
56 other members deemed necessary by the Chief Information Officer to provide advice and
57 recommendations on technology issues for state agencies.

**§5A-6-4b. Project management duties of the Chief Information Officer; establishment of
the Project Management Office and authority of the Project Management Office.**

1 (a) The Chief Information Officer is authorized to:

2 (1) Implement an approval process for technology projects proposed by state agencies to
3 ensure that all technology projects conform to the statewide strategic plan and the overall
4 technology strategy of the agency;

5 (2) Establish a methodology for conceiving, planning, scheduling, and providing
6 appropriate oversight for technology projects, including oversight for the projects and a process
7 for approving the planning, development, and procurement of technology projects; and

8 (3) Establish steering committees as needed to oversee technology projects.

9 (b) The Chief Information Officer shall create a Project Management Office within the
10 Office of Technology. The Project Management Office shall:

11 (1) Implement the approval process for technology projects;

12 (2) Review technology project proposals submitted by agencies and recommend to the
13 Chief Information Officer the approval of the proposals and any amendments thereto pursuant to
14 §5A-6-4c of this code;

15 (3) Monitor the implementation of technology projects and periodically report findings to
16 the Chief Information Officer;

17 (4) Implement technology portfolio management to assist the Chief Information Officer
18 with aligning investment in technology with strategic goals of the state. The standard by which the
19 projects within the technology portfolio will be evaluated are:

20 (A) Total cost of the project;

21 (B) Public or citizen interface with the project or number of people affected by the project;

22 (C) Whether the project is operationally critical to the agency.

23 (5) Provide oversight for technology projects; and

24 (6) Establish minimum qualifications and training standards for project managers.

§5A-6-4c. Technology project proposals and the establishment of steering committees.

1 (a) Prior to proceeding with a technology project, a state agency shall submit a project
2 proposal to the Project Management Office, outlining the business case, the proposed technology

3 solution, if known, and an explanation of how the project will support the agency's business
4 objective and the state's strategic plan for information technology. The Project Management
5 Office may require the submission of additional information as needed to adequately review any
6 proposal.

7 (b) The Project Management Office shall make recommendations on proposed projects to
8 the Chief Information Officer for final disposition: *Provided*, That the Chief Information Officer may
9 delegate approval authority.

10 (c) If the Chief Information Officer deems necessary, a steering committee may be
11 appointed to:

12 (1) Provide ongoing oversight for the technology project;

13 (2) Have the authority to approve or reject any changes to the project's scope, schedule,
14 or budget;

15 (3) Develop any necessary solicitation for the technology project; and

16 (4) Finalize data necessary for inclusion of the project in the technology portfolio.

§5A-6-5. Notice of request for proposals by state spending units required to make purchases through the state Purchasing Division.

1 Any state spending unit that pursues an information technology purchase that does not
2 meet the definition of "technology project" and that is required to submit a request for proposal to
3 the state Purchasing Division prior to purchasing goods or services shall obtain the approval of the
4 Chief Information Officer, in writing, of any proposed purchase of goods or services related to its
5 information technology and telecommunication systems. The proposal shall contain a brief
6 description of the goods and services to be purchased. The state spending unit shall provide the
7 proposal to the Chief Information Officer prior to the time it submits its request for proposal to the
8 state Purchasing Division.

§5A-6-6. Notice of request for proposals by state spending units exempted from submitting purchases to the state Purchasing Division.

1 (a) Any state spending unit that is not required to submit a request for proposal to the state
2 Purchasing Division prior to purchasing goods or services shall notify the Chief Information
3 Officer, in writing, of any proposed purchase of goods or services related to its information
4 technology or telecommunication systems. The proposal shall contain a detailed description of
5 the goods and services to be purchased. The state spending unit shall provide the proposal to
6 the Chief Information Officer a minimum of 10 days prior to the time it requests bids on the
7 provision of the goods or services.

8 (b) If the Chief Information Officer evaluates the suitability of the information technology
9 and telecommunication equipment and related services under the provisions of §5A-6-4(a) of this
10 code and determines that the goods or services to be purchased are not suitable, he or she shall,
11 within 10 days of receiving the notice from the state spending unit, notify the state spending unit,
12 in writing, of any recommendations he or she has regarding the proposed purchase of the goods
13 or services. If the state spending unit receives a written notice from the Chief Information Officer
14 within the time period required by this section, the state spending unit shall not put the goods or
15 services out for bid less than 15 days following receipt of the notice from the Chief Information
16 Officer.

§5A-6-7. Biannual report.

1 The Chief Information Officer shall report biannually to the Legislative Joint Committee on
2 Government and Finance on the activities of his or her office.

§5A-6-8. Exemptions.

1 (a) The provisions of this article do not apply to the Legislature, the judiciary, or any state
2 Constitutional Officer designated in §6-7-2 of this code.

3 (b) Notwithstanding any other provision of this article to the contrary, the provisions of this
4 article do not apply to the West Virginia Board of Education, the West Virginia Department of
5 Education, the county boards of education, the higher educational institutions, or the West Virginia
6 Emergency Management Division of the Department of Homeland Security relating to the

7 technology used with the Statewide Interoperable Radio Network, created by §15-14-1 *et seq.* of
8 this code. However, the West Virginia Board of Education, the West Virginia Department of
9 Education, the county boards of education, and the institutions of higher education shall cooperate
10 and collaborate with the Chief Information Officer to the extent feasible.

11 (c) The Governor may by executive order exempt from the provisions of this article any
12 entity created and organized to facilitate the public and private use of health care information and
13 the use of electronic medical records throughout the state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
President of the Senate

.....
Speaker of the House of Delegates

The within this the.....
Day of, 2021.

.....
Governor