

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4059

BY DELEGATES ROHRBACH, D. JEFFRIES, SUMMERS,
PACK, WARD, WORRELL, ROWAN, FORSHT, MALLOW, AND
JENNINGS

[Introduced January 12, 2022; Referred to the
Committee on Health and Human Resources]

1 A BILL to amend and reenact §29-6-2 and §29-6-4 of the Code of West Virginia, 1931, as
2 amended, relating to exempting new Department of Health and Human Resources'
3 Deputy Commissioners from civil service.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-2. Definition of terms.

1 As used in this article, unless the context indicates otherwise, the term:

2 (a) "Administrator" means any person who fills a statutorily created position within or
3 related to an agency or board (other than a board member) and who is designated by statute as
4 commissioner, deputy commissioner, assistant commissioner, director, chancellor, chief,
5 executive director, executive secretary, superintendent, deputy superintendent or other
6 administrative title, however designated;

7 (b) "Agency" means any administrative unit of state government, including any authority,
8 board, bureau, commission, committee, council, division, section or office;

9 (c) "Appointing authority" means a person or group of persons authorized by an agency to
10 make appointments to positions in the classified or classified-exempt service;

11 (d) "Board" means the state Personnel Board created by §29-6-6 of this code;

12 (e) "Class" or "class of positions" means a group of positions sufficiently similar in duties,
13 training, experience and responsibilities, as determined by specifications, that the same
14 qualifications, the same title and the same schedule of compensation and benefits may be
15 equitably applied to each position in the group;

16 (f) "Classification plan" means the plan by which positions in the classified service and
17 classified-exempt service have been allocated by class;

18 (g) "Classified-exempt service" means an employee whose position satisfies the
19 definitions for "class" and "classify" but who is not covered under the civil service system or
20 employed by the higher education governing boards;

21 (h) "Classified service" means an employee whose job satisfies the definitions for "class"
22 and "classify" and who is covered under the civil service system;

23 (i) "Classify" means to group all positions in classes and to allocate every position to the
24 appropriate class in the classification plan;

25 (j) "Director" means the head of the Division of Personnel as appointed by §29-6-7 of this
26 code;

27 (k) "Division" means the Division of Personnel herein created;

28 (l) "Policy-making position" means a position in which the person occupying it: (1) Acts as
29 an advisor to or formulates plans for the implementation of broad goals for an administrator or the
30 Governor; (2) is in charge of a major administrative component of the agency; ~~and~~ (3) reports
31 directly and is directly accountable to an administrator or the Governor, or (4) reports directly and
32 is directly accountable to an administrator within the Department of Health and Human

33 Resources;

34 (m) "Position" means a particular job which has been classified based on specifications;

35 (n) "Secretary" means the Secretary of the Department of Administration created in §5F-
36 1-2 of this code;

37 (o) "Specification" means a description of a class of position which defines the class,
38 provides examples of work performed and the minimum qualifications required for employment;

39 (p) "Veteran" means any person who has served in the Armed Forces of the United States
40 of America during World War I (April 6, 1917--November 11, 1918), World War II (December 7,
41 1941--December 31, 1946), the Korean Conflict (June 27, 1950--January 31, 1955), the Vietnam
42 Conflict (August 5, 1964--May 7, 1975) or in a campaign, expedition or conflict for which a
43 campaign badge has been authorized and received by such person and who has received a
44 discharge under honorable conditions from such service.

§29-6-4. Classified-exempt service; additions to classified service; exemptions.

1 (a) The classified-exempt service includes all positions included in the classified-exempt

2 service on the effective date of this article.

3 (b) Except for the period commencing on July 1, 1992, and ending on the first Monday
4 after the second Wednesday of the following January and except for the same periods
5 commencing in the year 1996, and in each fourth year thereafter, the Governor may, by executive
6 order, with the written consent of the State Personnel Board and the appointing authority
7 concerned, add to the list of positions in the classified service, but the additions may not include
8 any positions specifically exempted from coverage as provided in this section.

9 (c) The following offices and positions are exempt from coverage under the classified
10 service:

11 (1) All judges, officers, and employees of the judiciary;

12 (2) All members, officers, and employees of the Legislature;

13 (3) All officers elected by popular vote and employees of the officer;

14 (4) All secretaries of departments and employees within the office of a secretary;

15 (5) Members of boards and commissions and heads of departments appointed by the
16 Governor or heads of departments selected by commissions or boards when expressly exempt
17 by law or board order;

18 (6) Excluding the policy-making positions in an agency, one principal assistant or deputy
19 and one private secretary for each board or commission or head of a department elected or
20 appointed by the Governor or Legislature;

21 (7) All policy-making positions;

22 (8) Patients or inmates employed in state institutions;

23 (9) Persons employed in a professional or scientific capacity to make or conduct a
24 temporary and special inquiry, investigation, or examination on behalf of the Legislature or a
25 committee thereof, an executive department, or by authority of the Governor;

26 (10) All employees of the office of the Governor, including all employees assigned to the
27 executive mansion;

28 (11) Part-time professional personnel engaged in professional services without
29 administrative duties;

30 (12) Temporary employees;

31 (13) Members and employees of the board of trustees and board of directors or their
32 successor agencies;

33 (14) Uniformed personnel of the State Police; ~~and~~

34 (15) Temporary employees in the state forests, parks, and recreational areas; and

35 (16) Deputy commissioners within the Department of Health and Human Resources.

36 (d) The Legislature finds that the holding of political beliefs and party commitments
37 consistent or compatible with those of the Governor contributes in an essential way to the effective
38 performance of and is an appropriate requirement for occupying certain offices or positions in
39 state government, such as the secretaries of departments and the employees within their offices,
40 the heads of agencies appointed by the Governor and, for each such head of agency, a private
41 secretary and one principal assistant or deputy, all employees of the office of the Governor
42 including all employees assigned to the executive mansion, as well as any persons appointed by
43 the Governor to fill policy-making positions, in that those offices or positions are confidential in
44 character and require their holders to act as advisors to the Governor or the Governor's
45 appointees, to formulate and implement the policies and goals of the Governor or the Governor's
46 appointees, or to help the Governor or the Governor' appointees communicate with and explain
47 their policies and views to the public, the Legislature, and the press.

48 (e) All county road supervisor positions are covered under the classified service effective
49 July 1, 1999. A person employed as a county road supervisor on the effective date of this section
50 is not required to take or pass a qualifying or competitive examination upon, or as a condition of,
51 becoming a classified service employee. All county road supervisors who become classified
52 service employees pursuant to this subsection who are severed, removed, or terminated in his or

- 53 her employment must be severed, removed, or terminated as if the person was a classified service
54 employee.

NOTE: The purpose of this bill is to clarify that employees that directly report to a commissioner within the Department of Health and Human Resources are not eligible for classified exempt service.

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