

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 3**

BY SENATORS TAKUBO, NELSON, AND MARTIN

[Originating in the Committee on Finance; reported on

February 02, 2022]

1 A BILL to amend and reenact §21A-6-1 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new section, designated §21A-6-1d, all relating to  
3 eligibility for unemployment benefits; requiring work search activities to qualify for  
4 unemployment benefits; defining what constitutes work search activities; mandating  
5 submittal of proof of work search activities; providing for verification of work search  
6 activities; granting commissioner of Workforce West Virginia discretion in verification of  
7 work search activities; mandating establishment of process to refer individuals seeking  
8 unemployment benefits to job opportunities; requiring individuals receiving referrals to  
9 suitable work to apply for and accept that work; mandating employers to report refusal of  
10 offer of employment to commissioner; allowing individuals who accept part-time non-  
11 suitable employment to receive unemployment benefits without reduction for wages under  
12 certain circumstances; making certain individuals applying for or receiving unemployment  
13 benefits exempt from work search requirements; establishing process for notification of  
14 work search activity requirements; requiring rulemaking; and setting effective date.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 6. EMPLOYEE ELIGIBILITY; BENEFITS.**

**§21A-6-1. Eligibility qualifications.**

1 An unemployed individual shall be eligible to receive benefits only if the commissioner  
2 finds that:

3 (1) He or she has registered for work at and thereafter continues to report at an  
4 employment office in accordance with the regulations of the commissioner;

5 (2) He or she has made a claim for benefits in accordance with the provisions of article  
6 seven of this chapter and has furnished his or her Social Security number, or numbers if he or  
7 she has more than one such number;

8 (3) He or she is able to work and is available for full-time work for which he or she is fitted  
9 by prior training or experience and is ~~doing that which a reasonably prudent person in his or her~~

10 ~~circumstances would do in seeking work~~ actively seeking work as defined in §21A-6-1d of this  
11 code;

12 (4) He or she has been totally or partially unemployed during his or her benefit year for a  
13 waiting period of one-week prior to the week for which he or she claims benefits for total or partial  
14 unemployment;

15 (5) He or she has within his or her base period been paid wages for employment equal to  
16 not less than \$2,200 and must have earned wages in more than one quarter of his or her base  
17 period or, if he or she is not eligible under his or her base period, has within his or her alternative  
18 base period been paid wages for employment equal to not less than \$2,200 and must have earned  
19 wages in more than one quarter of his or her alternative base period; and

20 (6) He or she participates in reemployment services as defined in §21A-6-1d of this code,  
21 such as job search assistance services, if the individual has been determined to be likely to  
22 exhaust regular benefits and needs reemployment services pursuant to a profiling system  
23 established by the commissioner, unless the commissioner determines that:

24 (A) The individual has completed such services; or

25 (B) There is justifiable cause for the claimant's failure to participate in such services.

**§21A-6-1d. Jobs and Reemployment Act.**

1 (a) In addition to compliance with all other eligibility requirements, an individual shall be  
2 eligible and shall remain eligible for unemployment benefits only if he or she actively seeks, and  
3 continues to seek, work by conducting at least four work search activities weekly, defined as:

4 (1) Registering for work with the state's labor exchange system, placement firm, temporary  
5 work agencies, or educational institution with job placement offices;

6 (2) Logging on and looking for work in the state's labor exchange or other online job  
7 matching system;

8 (3) Using reemployment services in job centers or completing similar online or self-service  
9 activities, including, but not limited to, obtaining and using labor market and career information,

10 participating in Reemployment Services and Eligibility Assessment (RESEA) activities,  
11 participating in skills assessment for occupational matching, instructional workshops, or other  
12 specialized activities;

13 (4) Completing job applications for employers that have, or are reasonably expected to  
14 have, job openings, or following through on job referrals or job development attempts, as directed  
15 by Workforce West Virginia staff;

16 (5) Applying for or participating in employment and training services provided by partner  
17 programs in job centers;

18 (6) Participating in work-related networking events, such as job clubs, job fairs, industry  
19 association events, or networking groups;

20 (7) Making contacts with, or in-person visits to, employers that have, or are reasonably  
21 expected to have, job openings;

22 (8) Taking a civil service examination;

23 (9) Going on interviews with employers, either in-person or virtually; or

24 (10) Performing any other work search activities prescribed or allowed by rules  
25 promulgated by Workforce West Virginia.

26 (b) The commissioner shall:

27 (1) Require an individual, at the time of application for unemployment benefits and weekly  
28 thereafter, to provide proof of all his or her work search activities;

29 (2) Verify submissions of proof of work search activities by individuals applying for or  
30 receiving unemployment benefits; and

31 (3) Determine any individual who fails to perform work search activities or provide proof of  
32 work search activities as required by this section ineligible to receive unemployment benefits  
33 unless the individual can reasonably explain his or her failure to do so or timely remedy the failure  
34 to provide proof of his or her work search activity.

35 (c) The commissioner shall have discretion to determine the sufficiency of the proof of

36 work search activities submitted, the explanation of a failure to submit such proof, the provision  
37 of such proof after an inaccuracy in the proof provided is identified, and whether an individual has  
38 otherwise complied with the requirements of this section.

39 (d) The commissioner shall, utilizing existing resources:

40 (1) Establish a process by which Workforce West Virginia will share open positions  
41 submitted to or posted by the Division of Personnel or any other state-administered job board by  
42 employers directly with individuals applying for or receiving unemployment benefits; and

43 (2) Establish a process by which, for the purpose of helping individuals applying for or  
44 receiving unemployment benefits secure suitable work, Workforce West Virginia shall refer  
45 individuals applying for or receiving unemployment benefits to such open positions, including  
46 facilitating contact between employers and those individuals and monitoring whether those  
47 individuals are sufficiently responsive to a referral.

48 (e) An individual applying for or receiving unemployment benefits who receives referrals  
49 from Workforce West Virginia to a job or jobs considered to be suitable, as that term is defined in  
50 this chapter, shall apply for that job or those jobs within one-week of receiving the referrals and  
51 accept employment in suitable work if offered.

52 (f) Employers shall report the refusal of any individual who is receiving unemployment  
53 benefits and who receives job referrals from Workforce West Virginia to accept an offer of  
54 employment to the commissioner. The report shall be made in writing in a manner prescribed by  
55 the commissioner and shall be signed by the employer. The report shall become part of the file of  
56 the individual's claim for benefits.

57 (g) Individuals receiving unemployment benefits who accept a referral to a part-time open  
58 position or otherwise accept part-time employment for which the wages are less than his or her  
59 weekly benefit rate shall continue to receive unemployment benefits without reduction for those  
60 wages for the duration of his or her benefits period.

61 (h) With the exception of individuals who have received or been served with a summons

62 for jury duty or are serving on a jury in any court of this state, the United States, or any state of  
63 the United States; are receiving vocational training as described in the provisions of §21A-6-4 of  
64 this code; or who are members in good standing of a union that refers its members to employment  
65 from a union hall, all individuals applying for or receiving unemployment benefits shall be subject  
66 to the requirements of this section, including, but not limited to, individuals who are seasonally  
67 unemployed or laid off subject to recall by their employer.

68 (i) Workforce West Virginia shall notify individuals seeking benefits, at the time an initial  
69 claim is filed and at any other time during the benefit year that the requirements substantively  
70 change, of the obligation to actively seek work. Delivery of the notification shall be made by the  
71 method selected by the individual seeking benefits, and may include United States mail, email,  
72 online mailbox, or text message. The notification shall include, at a minimum, the types of work  
73 search activities that are acceptable; the number of work search activities that are required in any  
74 week; the requirement that work search activities be documented; and the requirement to apply,  
75 and accept if offered, suitable jobs referred by the agency.

76 (j) The commissioner shall promulgate rules for legislative approval in accordance with the  
77 provisions of §29A-3-1 et seq. of this code.

78 (k) The provisions of this section shall become effective January 1, 2023.