

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 3195

FISCAL
NOTE

By Delegate McGeehan

[Introduced January 31, 2023; Referred
to the Committee on Government Organization then
Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5-1F-1, §5-1F-2, and §5-1F-3; to amend and reenact §29-6-7 of said code;
 3 and to amend said code by adding thereto a new section, designated §29-6-23a, all
 4 relating to the management of personal service appropriations for vacant positions;
 5 providing for findings; providing for the transfer of appropriations for vacant positions;
 6 providing for a transfer of appropriations in a state of emergency; and providing for an
 7 annual report.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
 GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 1F. MANAGEMENT OF APPROPRIATIONS FOR VACANT PERSONNEL
 POSITIONS.**

§5-1F-1. Findings.

1 The Legislature finds that it is the duty of the State of West Virginia to manage
 2 appropriations with integrity and transparency. The Legislature also finds that the State of West
 3 Virginia’s process for managing funds appropriated for vacant positions allows for appropriations
 4 to be repurposed outside the intent of the Legislature and thus should be replaced with new
 5 mechanisms by which to reduce unnecessary appropriations.

§5-1F-2. Transfer of appropriations for vacant positions.

1 (a) The Secretary of Treasury shall ensure that personal services appropriations for any
 2 vacant positions are transferred to the special account identified in §29-6-23a of this code.
 3 (b) The Department of Personnel will immediately request the State Budget Office transfer

4 remaining appropriated funds from the special fund referenced in §29-6-23a of this code to the
5 applicable spending unit upon a vacant position being filled.

6 (c) The spending units will immediately request the State Budget Office transfer balance of
7 appropriated funds for personal services to the special account referenced in §29-6-23a of this
8 code upon vacancy of the related position and not use said funds for any other purpose.

§5-1F-3. Transfer of appropriations in state of emergency.

1 During a state of emergency, personal service appropriations for positions that are vacant
2 may be transferred to meet the needs of the particular spending unit during the emergency. Once
3 the state of emergency is declared over, the balance of appropriations will be returned to the
4 special account identified in §29-6-23a of this code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-7. Director of personnel; appointment; qualifications; powers and duties.

1 (a) The Secretary of the Department of Administration shall appoint the director. The
2 director shall be a person knowledgeable of the application of the merit principles in public
3 employment as evidenced by the obtainment of a degree in business administration, personnel
4 administration, public administration or the equivalent or at least five years of administrative
5 experience. The salary for the director shall be that which is set out in section two-a, article seven,
6 chapter six of this code.

7 (b) The director shall:

8 (1) Consistent with the provisions of this article, administer the operations of the division,
9 allocating the functions and activities of the division among sections as the director may establish;

10 (2) Maintain a personnel management information system necessary to carry out the
11 provisions of this article;

12 (3) Supervise payrolls and audit payrolls, reports or transactions for conformity with the

13 provisions of this article;

14 (4) Plan, evaluate, administer and implement personnel programs and policies in state
15 government and to political subdivisions after agreement by the parties;

16 (5) Supervise the employee selection process and employ performance evaluation
17 procedures;

18 (6) Develop programs to improve efficiency and effectiveness of the public service,
19 including, but not limited to, employee training, development, assistance and incentives, which,
20 notwithstanding any provision of this code to the contrary, may include a one-time monetary
21 incentive for recruitment and retention of employees in critically understaffed classifications. The
22 director, in consultation with the board, shall determine which classifications are critically
23 understaffed. The one-time monetary incentive program shall continue until June 30, 2009. The
24 director shall report annually on or before December 31, commencing in the year 2007, to the Joint
25 Committee on Government and Finance. The annual report shall provide all relevant information
26 on the one-time monetary incentive program and the understaffed classifications in state
27 agencies;

28 (7) Establish pilot programs and other projects for a maximum of one year outside of the
29 provisions of this article, subject to approval by the board, to be included in the annual report;

30 (8) Establish and provide for a public employee interchange program and may provide for a
31 voluntary employee interchange program between public and private sector employees;

32 (9) Establish an internship program;

33 (10) Assist the Governor and Secretary of the Department of Administration in general
34 workforce planning and other personnel matters;

35 (11) Make an annual report to the Governor and Legislature and all other special or
36 periodic reports as may be required;

37 (A) An annual report, presented in a 90-day period prior to regular session, to the Joint
38 Committee on Finance and Joint Committee on Government is required on vacant positions

39 related to appropriations for personal services. This report shall include the following information:

40 (i) Be current as of no greater than 30-days prior to report out to joint committees

41 (ii) Number of vacancies

42 (iii) Number of vacancies per spending unit

43 (iv) Amount of unused appropriations

44 (v) How appropriations used if not for employee salaries and benefits

45 (vi) Length of time vacant for each vacancy

46 (B) An annual report, presented in a 90-day period prior to regular session, to the Joint

47 Committee on Finance and Joint Committee on Government is required on ratio of state

48 employees to population, to include comparative analysis on 10-year trends and growth rates.

49 (12) Assess cost for special or other services;

50 (13) Recommend rules to the board for implementation of this article; and

51 (14) Conduct schools, seminars or classes for supervisory employees of the state
52 regarding handling of complaints and disciplinary matters and the operation of the state personnel
53 system.

§29-6-23a. Special fund; personal service appropriations for vacant positions.

1 (a) For the operation of the division, there is hereby created in the State Treasury a special
2 fund to be known and designated as the "Division of Personnel Vacant Position Fund." This fund
3 shall consist of appropriations made by the Legislature for personal service positions that are
4 currently vacant.

5 (b) Each agency, department, division or unit of state or local government with personal
6 service appropriations is hereby authorized and directed to transmit to the division for deposit in
7 said special fund the balance of appropriations for positions that are or become vacant.

8 (c) Disbursements from the fund shall be made to appropriate spending unit upon
9 confirmation that: a vacant position has been filled by a qualified applicant; overtime is to be paid
10 to for employees making up for vacant position; or a contractor has been engaged temporarily to

- 11 fill in the responsibilities of the vacant position.
- 12 (d) The balance of funds remaining at the end of fiscal year shall be transferred to the
- 13 Revenue Shortfall Reserve Fund.
- 14 (e) The director shall maintain accurate records reflecting the cost of administering the
- 15 provisions of this article.

NOTE: The purpose of this bill is to provide for the management of personal service appropriations for vacant positions. The bill provides for findings. The bill provides for the transfer of appropriations for vacant positions. The bill provides for a transfer of appropriations in a state of emergency. Finally, the bill provides for an annual report.

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