

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5148

By Delegates Mallow, Jennings, DeVault, Heckert,

Adkins, Willis, and Summers

[Introduced January 25, 2024; Referred to the
Committee on Fire Departments and Emergency
Medical Services then Government Organization]

1 A BILL to amend and reenact §5F-2-2 of the Code of West Virginia, 1931, as amended, relating to
 2 authorizing the promulgation of rules, to implement a central purchasing program to
 3 reduce the cost of supplies by purchasing in bulk or in a discounted format for volunteer fire
 4 fighters and emergency medical services first responders.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-2. Power and authority of secretary of each department.

1 (a) Notwithstanding any other provision of this code to the contrary, the secretary of each
 2 department ~~shall have plenary power and authority within and for the department to~~ may:

3 (1) Employ and discharge within the office of the secretary employees as may be
 4 necessary to carry out the functions of the secretary, which employees shall serve at the will and
 5 pleasure of the secretary;

6 (2) Cause the various agencies and boards to be operated effectively, efficiently, and
 7 economically and develop goals, objectives, policies, and plans that are necessary or desirable for
 8 the effective, efficient, and economical operation of the department;

9 (3) Eliminate or consolidate positions, other than positions of administrators or positions of
 10 board members and name a person to fill more than one position;

11 (4) Transfer permanent state employees between departments in accordance with the
 12 provisions of §5F-2-7 of this code;

13 (5) Delegate, assign, transfer, or combine responsibilities or duties to or among
 14 employees, other than administrators or board members;

15 (6) Reorganize internal functions or operations;

16 (7) Formulate comprehensive budgets for consideration by the Governor;

17 (8) Enter into contracts or agreements requiring the expenditure of public funds and
 18 authorize the expenditure or obligation of public funds as authorized by law: *Provided*, That the
 19 powers granted to the secretary to enter into contracts or agreements and to make expenditures or

20 obligations of public funds under this provision ~~shall~~ may not exceed or be interpreted as authority
21 to exceed the powers granted by the Legislature to the various commissioners, directors, or board
22 members of the various departments, agencies, or boards that comprise and are incorporated into
23 each secretary's department under this chapter;

24 (9) Acquire by lease or purchase property of whatever kind or character and convey or
25 dispose of any property of whatever kind or character as authorized by law: *Provided*, That the
26 powers granted to the secretary to lease, purchase, convey, or dispose of such property shall be
27 exercised in accordance with §5A-3-1 *et seq.*, §5A-10-1 *et seq.*, and §5A-3-11 *et seq.* of this code:
28 *Provided, however*, That the powers granted to the secretary to lease, purchase, convey, or
29 dispose of such property ~~shall~~ may not exceed or be interpreted as authority to exceed the powers
30 granted by the Legislature to the various commissioners, directors, or board members of the
31 various departments, agencies, or boards that comprise and are incorporated into each
32 secretary's department under this chapter;

33 (10) Conduct internal audits;

34 (11) Supervise internal management;

35 (12) Promulgate rules, as defined in §29A-1-2 of this code, to implement and make
36 effective the powers, authority, and duties granted and imposed by the provisions of this chapter in
37 accordance with the provisions of Chapter 29A of this code;

38 (13) Grant or withhold written consent to the proposal of any rule, as defined in §29A-1-2 of
39 this code, by any administrator, agency, or board within the department. Without written consent,
40 no proposal for a rule ~~shall~~ may have any force or effect;

41 (14) Delegate to administrators the duties of the secretary as the secretary may deem
42 appropriate, from time to time, to facilitate execution of the powers, authority, and duties delegated
43 to the secretary;

44 (15) Enter into memoranda of understanding; and

45 (16) Promulgate rules, as defined in §29A-1-2 of this code, to implement and make

46 effective the powers, authority, and duties granted and imposed by the provisions of this chapter to
47 develop a central purchasing program to reduce the cost of supplies by purchasing in bulk or in a
48 discounted format for volunteer fire fighters and emergency medical services first responders; and

49 ~~(16)~~ (17) Take any other action involving or relating to internal management not otherwise
50 prohibited by law.

51 (b) The secretaries of the departments shall engage in a comprehensive review of the
52 practices, policies, and operations of the agencies and boards within their departments to
53 determine the feasibility of cost reductions and increased efficiency which may be achieved
54 therein, including, but not limited to, the following:

55 (1) The elimination, reduction, and restriction of the state's vehicle or other transportation
56 fleet;

57 (2) The elimination, reduction, and restriction of state government publications, including
58 annual reports, informational materials, and promotional materials;

59 (3) The termination or rectification of terms contained in lease agreements between the
60 state and private sector for offices, equipment, and services;

61 (4) The adoption of appropriate systems for accounting, including consideration of an
62 accrual basis financial accounting and reporting system;

63 (5) The adoption of revised procurement practices to facilitate cost-effective purchasing
64 procedures, including consideration of means by which domestic businesses may be assisted to
65 compete for state government purchases; and

66 (6) The computerization of the functions of the state agencies and boards.

67 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, none of the
68 powers granted to the secretaries shall may be exercised by the secretary if to do so would violate
69 or be inconsistent with the provisions of any federal law or regulation, any federal-state program or
70 federally delegated program or jeopardize the approval, existence, or funding of any program.

71 (d) The layoff and recall rights of employees within the classified service of the state as

72 provided in §29-6-10(5) and §29-6-10(6) of this code shall be limited to the organizational unit
73 within the agency or board and within the occupational group established by the classification and
74 compensation plan for the classified service of the agency or board in which the employee was
75 employed prior to the agency or board's transfer or incorporation into the department: *Provided,*
76 That the employee shall possess the qualifications established for the job class. The duration of
77 recall rights provided in this subsection shall be limited to two years or the length of tenure,
78 whichever is less. Except as provided in this subsection, nothing contained in this section shall be
79 construed to abridge the rights of employees within the classified service of the state as provided
80 in §29-6-10 and §29-6-10a of this code.

81 (e) Notwithstanding any other provision of this code to the contrary, the secretary of each
82 department shall cooperate with the State Resiliency Office to the fullest extent practicable to
83 assist that office in fulfilling its duties.

NOTE: The purpose of this bill is to authorize the promulgation of rules, to implement a central purchasing program to reduce the cost of supplies by purchasing in bulk or in a discounted format for volunteer fire fighters and emergency medical services first responders.

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