

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5441

By Delegate Hanshaw (Mr. Speaker)

(By Request of the Executive)

[Originating in the Committee on Government
Organization; reported on February 26, 2026]

1 A BILL to amend and reenact §5F-2-8, §11B-1-8, §29-6-1, §29-6-2, §29-6-4, §29-6-5, §29-6-6,
2 §29-6-7, §29-6-10, §29-6-16, §29-6-24, and §49-10-101 of the Code of West Virginia,
3 1931, as amended; and to repeal §29-6-8, §29-6-9, §29-6-10a, §29-6-14, §29-6-25, §29-6-
4 27, §49-10-102, and §49-10-103 of said code, relating to streamlining and reforming the
5 Division of Personnel systems; eliminating special merit-based personnel system for
6 Department of Transportation employees; transferring duplicative Department of
7 Transportation personnel duties to the Division of Personnel; exempting new hires and
8 promoted employees within the Department of Transportation from the classified civil
9 service system and the state grievance procedures beginning on July 1, 2026; eliminating
10 special merit-based personnel system for the State Tax Division and Bureau for Social
11 Services; transferring duplicative State Tax Division and Bureau for Social Services
12 personnel duties to the Division of Personnel; clarifying definitions related to the state's
13 personnel systems; defining classified and classified-exempt service; removing provisions
14 allowing additions to the classified service; identifying and defining exemptions from the
15 classified service; streamlining the functions of the Division of Personnel; terminating the
16 State Personnel Board; transferring authority from the State Personnel Board to the
17 Division of Personnel; clarifying and identifying the duties of the Division of Personnel;
18 clarifying the rulemaking authority for the Division of Personnel; clarifying that the records
19 of the division are subject to the Freedom of Information Act and its exemptions for
20 personal identifying and personal health information; shortening the time frames for
21 classified job openings and appointments; shifting the leave donation program to a
22 program provided for through rulemaking; modernizing processes for posting job openings
23 in classified service; removing archaic provisions; and technical cleanup throughout.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-8. Special merit-based personnel system for Department of Transportation employees Transfer of Department of Transportation Personnel System to the Division of Personnel; Transfer of new hires and promoted employees within the Department of Transportation to the Classified-Exempt System.

1 ~~(a) In order to attract and retain employees in the Department of Transportation, the~~
2 ~~Secretary of Transportation shall establish a system of personnel administration based on merit~~
3 ~~principles and scientific methods governing the appointment, promotion, transfer, layoff, removal,~~
4 ~~discipline, classification, compensation, and welfare of its employees, and other incidents of state~~
5 ~~employment. All appointments and promotions to positions shall be made solely on the basis of~~
6 ~~merit and fitness for the position.~~

7 ~~(b) The Department of Transportation personnel system shall be founded on effective~~
8 ~~performance management principles that set clear goals, provide efficient and effective services~~
9 ~~for our citizens, and appraise and reward employees for being responsible and performing as~~
10 ~~required.~~

11 ~~(c) Beginning on January 1, 2022, notwithstanding any provision of this code or any rule to~~
12 ~~the contrary, employees and positions within the various agencies, boards, commissions, and~~
13 ~~divisions within the Department of Transportation currently governed by the provisions of §29-6-1~~
14 ~~et seq. of this code shall be subject to the personnel system created pursuant to this section:~~
15 ~~Provided, That such employees and positions shall be deemed to retain their classified or~~
16 ~~classified-exempt status and all rights and privileges thereof. The employees of the Department of~~
17 ~~Transportation shall be afforded due process protections through §6C-2-1 et seq. of this code or~~
18 ~~other procedures established by the department that assure all of the protections required by law.~~

19 (a) Legislative findings and intent. –

20 (1) The several exemptions from centralized administration of the state’s personnel have
21 created multiple, redundant, inefficient, and overly complex personnel and human resources
22 systems in several parts of state government; and

23 (2) Shifting to a centralized oversight system that includes necessary flexibility for all state
24 agencies—instead of a few favored agencies—would facilitate the streamlining of state
25 government and the proper management of the state executive personnel systems.

26 (b) Beginning on July 1, 2026, the Department of Transportation’s authority to establish
27 personnel system under this section is hereby abolished and all personnel within the special merit
28 system created under this section shall be subject to the provisions of §29-6-1 et seq. of this code
29 except that:

30 (1) Any and all job classifications, specifications, and compensation structures
31 established, created, fixed, effective, produced, or made by the Department of Transportation,
32 prior to July 1, 2026, under the authority granted by this section, shall transfer to the oversight and
33 administration of the Division of Personnel;

34 (2) Following the transfer, the Division of Personnel shall not modify the job classifications,
35 specifications, and compensation structures created pursuant to this section prior to July 1, 2026,
36 except with the consent of the Secretary of the Department of Transportation or as provided in
37 §5F-2-8(c) of this code.

38 (c) Notwithstanding any provision of this code or any rule to the contrary, beginning on July
39 1, 2026, all employees of the Departments of Transportation shall be exempt from the state
40 grievance procedures as set forth in §6C-2-1 et seq. of this code and from the classified civil
41 service system created under subsection (a) through (c) of this section except that:

42 (1) All employees of the Departments of Transportation who are currently members of a
43 classified civil service system under subsection (a) through (c) of this section shall retain their
44 status as long as they remain in their current position; and

45 (2) All employees of these Departments of Transportation who currently have recourse to
46 the state grievance procedures will continue to have access to the state grievance procedures as
47 long as they remain in their current position;

48 (3) Any employee of the Departments of Transportation that leaves his or her position and
49 remains an employee within any department governed by §5B-1-2, §5B-2-1, §5B-2i-4, §5F-2-9,
50 §5F-2-10, or §29-1-1a of this code shall, at that time, be transferred to the classified exempt
51 service system as defined in §29-6-2(g) of this code and be exempted from the state grievance
52 procedures as set forth in §6C-2-1 et seq. of this code; and

53 (4) The secretary of the Department of Transportation shall have the authority to designate
54 certain employees' status under the classified civil service system and grievance procedures as
55 may be deemed necessary to comply with federal law, federal regulation, or the requirements for
56 receipt of federal funding or assistance.

57 (d) Subsection (c) of this section shall not apply to any position appointed by the Governor.

58 ~~(d) (e) The Department of Transportation personnel system is not exempt~~ Nothing in this
59 section shall exempt the Department of Transportation from the provisions of this code prohibiting
60 nepotism, favoritism, discrimination, or unethical practices related to the employment process
61 promotion, transfer, layoff, removal, discipline, and compensation of state employees.

62 ~~(e) The Department of Transportation personnel system may not be applied in any manner~~
63 ~~that would disqualify the department or its agencies, boards, commissions, or divisions for~~
64 ~~eligibility for any federal funding or assistance.~~

65 ~~(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take~~
66 ~~any action necessary to assist the Department of Transportation in completing the transition to the~~
67 ~~department's personnel system in an orderly and efficient manner.~~

68 ~~(g) The Secretary of Transportation may propose rules for legislative approval in~~
69 ~~accordance with the provisions of §29A-3-1 et seq. of this code and may promulgate emergency~~

rules pursuant to the provisions of ~~§29A-3-15~~ of this code to implement the provisions of this section.

(h) ~~(f)~~ Notwithstanding any provision of this code to the contrary, the Department of Transportation personnel system shall require that may not provide any probationary employee of the Department of Transportation who is terminated for failing a drug or alcohol screen or refusing a drug or alcohol screen shall not be entitled to severance pay.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 1. DEPARTMENT OF REVENUE.

§11B-1-8. ~~Special employment procedures~~ Eliminating Division of Personnel Exemption for Tax Division personnel.

(a) *Legislative findings and intent.* —

~~(1) The Tax Division of the Department of Revenue has approximately one hundred vacancies. The Legislature finds that the division has long had difficulty filling positions which are essential to efficiently and effectively administering, collecting and enforcing the tax laws of this state. The Legislature finds that, to address this problem, the hiring and retention processes of the division must be streamlined to effectively and efficiently meet personnel needs while still affording applicants and employees the due process protections of classified service.~~

~~(2) The ratification of the Roads to Prosperity Amendment of 2017 to the Constitution of West Virginia will result in substantially increased funding for roads and highways in the state and the opportunity for in-state and out-of-state contractors to bid on road projects. The need to ensure that all businesses are in compliance with the tax laws of this state will exacerbate the division's staffing shortage.~~

~~(3) The purpose of this section is to allow the division to employ qualified applicants in vacant and new personnel positions within the division in a timely manner and to ensure that the~~

~~division maintains an adequate workforce to effectively and fairly administer, collect and enforce the tax laws of this state.~~

(1) The several exemptions from centralized administration of the state's personnel have created multiple, redundant, inefficient, and overly complex personnel and human resources systems in several parts of state government; and

(2) Shifting to a centralized oversight system that includes necessary flexibility for all state departments—instead of a few favored agencies—would facilitate the streamlining of state government and the proper management of the state executive personnel systems.

(b) *Definitions.* — As used in this section:

(1) "Commissioner" means the Commissioner of the Tax Division of the Department of Revenue or his or her designee; and

(2) "Division" means the Tax Division of the Department of Revenue.

~~(c) *Special employment procedure; requirements.* — The commissioner shall implement the special merit-based application and appointment procedure authorized by the provisions of this section for all the employees of the division to ensure and provide for the selection and retention of competent and qualified personnel. The special application and employment procedure established pursuant to this section shall be effective on and after December 1, 2017, and shall be subject to the following requirements:~~

~~(1) The Division of Personnel shall provide competitive registers of eligible applicants when requested by the division to do so within five business days of receipt of the request;~~

~~(2) Any position to be filled internally shall be posted for seven calendar days before the division may select an applicant. For positions to be filled with applicants from outside of the division, the public service announcement shall be posted for not less than fourteen calendar days;~~

~~(3) Postings shall be active for up to one year;~~

~~(4) Notwithstanding any provision of law or rule promulgated under the provisions of this code, the division may employ any person listed on the register for employment as a Tax and Revenue Auditor 1, Tax and Revenue Auditor 2, Tax and Revenue Auditor 3, Revenue Agent 1, Revenue Agent 2, Investigator 2 or Investigator 3 without regard to the person's position on the applicable register;~~

~~(5) The division shall have full authority to evaluate applicants for employment or promotion within the division to positions within the classified service and classified-exempt service. The division shall have sole authority to determine whether applicants for positions with the division meet minimum position requirements;~~

~~(6) The division shall have full authority to make classification determinations for positions within the division by using the classification system approved by the State Personnel Board. The division may independently submit to the State Personnel Board recommendations for the approval of new division classifications or the amendment of current division classifications;~~

~~(7) The division shall have full authority to exercise its discretion regarding the application of the Division of Personnel's system of compensation for positions within the classified and classified-exempt service: *Provided*, That application of this subdivision shall be uniform. The division may independently submit to the State Personnel Board recommendations for the approval of a special pay scale for the division's personnel;~~

~~(8) Notwithstanding any provision of the code or of any rule to the contrary, the Division of Personnel shall not be a mandatory party to any public employee grievance filed against the division. The Division of Personnel shall not be a signatory to, and may not override or otherwise challenge, the division's decisions regarding settlement terms and conditions in employee grievances or other legal proceedings;~~

~~(9) The Division of Personnel shall facilitate or perform any lawful action necessary to initiate or complete the division's employment transactions, including, but not limited to, posting~~

~~positions on applicable systems, initiating public service announcements when requested by the division, and processing necessary forms;~~

~~(10) The division shall comply with all applicable record retention requirements provided by law;~~

~~(11) The division is authorized to declare any positions effectively vacant due to employee separations, which were not processed prior to the division being placed under the wvOASIS system, vacant and subject to being filled pursuant to the provisions of this section;~~

~~(12) The division shall have the flexibility to utilize all vacant position numbers when posting to fill a vacancy and to post vacant positions utilizing multiple classifications with corresponding job descriptions when the commissioner determines it to be necessary and in the best interest of the division; and~~

~~(13) For purposes of this section, a vacancy created when an employee of the division separates or goes on terminal leave may be posted upon receipt of the notice that the employee separated or commenced such leave.~~

~~(d) *Exemption from regular application and appointment requirements.* — When seeking applications or making appointments pursuant to the special procedure authorized by subsection (c) of this section, the division is not required to comply with Division of Personnel procedures for seeking applications and making appointments to classified service positions as provided by the provisions of article six, chapter twenty-nine of this code or in any other provision of this code, including those procedures promulgated in procedural or legislative rules promulgated by the commissioner pursuant to article three, chapter twenty-nine-a of this code, except that this section does not exempt the division from provisions of this code, prohibiting nepotism, favoritism, discrimination or unethical practices related to appointment, or the public employee grievance system.~~

89 ~~(e) The commissioner may promulgate emergency rules and shall propose legislative~~
90 ~~rules pursuant to the provisions of article three, chapter twenty-nine-a of this code as may be~~
91 ~~necessary to implement and comply with the provisions of this section.~~

92 ~~(f) The provisions of this section shall apply notwithstanding the provisions of article six,~~
93 ~~chapter twenty-nine of this code to the contrary.~~

94 ~~(g) Classified employees of the division shall continue to be covered by the civil service~~
95 ~~system and may utilize any applicable public employee grievance process.~~

1 (c) Beginning on July 1, 2026, the division's authority to establish a classified system for
2 personnel administration under this section is hereby abolished and all personnel within the
3 special merit system created under this section shall be subject to the provisions of §29-6-1 et seq.
4 of this code except that:

5 (1) Any and all job classifications, specifications, and compensation structures
6 established, created, fixed, effective, produced, or made by the division, prior to July 1, 2026, by
7 the authority granted under this section, shall transfer to the oversight and administration of the
8 Division of Personnel; and

9 (2) Following the transfer, the Division of Personnel shall not modify the job classifications,
10 specifications, and compensation structures created pursuant to this section prior to July 1, 2026,
11 except with the consent of the Secretary of the Department of Revenue or as provided in §5F-2-9
12 of this code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 6. CIVIL SERVICE SYSTEM DIVISION OF PERSONNEL SYSTEMS.

§29-6-1. General purpose.

1 (a) The general purpose of this article is to attract to the service of this state personnel of
2 the highest ability and integrity by the establishment of a system of personnel administration based
3 on merit principles and scientific methods governing the appointment, promotion, transfer, layoff,

removal, discipline, classification, compensation and welfare of its civil personnel systems employees, and other incidents of state employment. All appointments and promotions to positions in the ~~classified service~~ personnel systems shall be made solely on the basis of merit and fitness. ~~except as hereinafter specified. All employment positions not in the classified service, with the exception of the board of regents, are included in a classification plan known as classified-exempt service.~~

(b) The personnel system must be founded on effective performance management principles that set clear goals, provide efficient and effective services for our citizens, and appraise and reward employees for being responsible and performing as required. To that end, the core functions of the Division of Personnel shall be to attract and retain highly qualified and skilled employees and to serve as a beneficial resource, working collaboratively with all agencies using its services.

§29-6-2. Definition of terms.

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

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

(b) "Agency" means any ~~administrative unit of state government, including any authority, board, bureau, commission, committee, council, division, section or office~~ authority, board, bureau, commission, division or other entity of state government, however designated, transferred to or incorporated in one of the departments created in §5F-1-2 of this code, as well as any affiliated county or municipal agency: *Provided*, That individual districts, offices, regions, sections and units within the same agency, however designated, shall not be considered a separate agency;

(c) "Appointing authority" means ~~a person or group of persons authorized by an agency to make appointments to positions~~ the executive head of a department or agency who is authorized by statute to appoint employees in the classified or classified-exempt service;

(d) "Board" means the state Personnel Board created by section six of this article;

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

(e) "Class specification" means the official description of a class of positions for the purpose of describing the nature of the work, providing examples of work performed, and identifying the knowledge, skills, and abilities required while stating the generally accepted minimum qualifications required for employment;

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

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

(1) May be categorized in the Division of Personnel's system by job title, knowledge, skill, abilities, experience, or description;

(2) May be filled by a department or agency of the state even if the applicant does not meet the knowledge, skill, abilities, experience, or description established by the Division of Personnel;

(3) Shall be at the will and pleasure of the hiring department or agency;

(4) May not be subject to Division of Personnel pay schedules; and

(5) May not be covered under the Division of Personnel classified system or employed by the Higher Education Policy Commission, Council for Community and Technical College Education, or higher education governing boards, as defined in §18B-1-2 of this code;

(h) "Classified service" means ~~an employee whose job satisfies~~ those positions which
satisfy the definitions for "class" and "classify" and ~~who is~~ which are covered under the civil service
Division of Personnel classified system;

(i) "Classify" means ~~to group all positions in classes and to allocate every position to the~~
~~appropriate class in the classification plan~~ the process of ascertaining, analyzing, and evaluating
the duties and responsibilities of positions to determine the number and kind of classes existing in
the service and to group the positions in classes;

(j) "Department" or "departments" means the departments of the executive branch of state
government provided in §5F-1-2 of this code;

~~(j)~~ (k) "Director" means the head of the Division of Personnel as appointed by section
seven of this article;

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

(m) "Exempt service" means all positions specifically exempted by statute from
administrative oversight of the Division of Personnel;

~~(l)~~ (n) "Policy-making position" means a position in which the person occupying it: (1) Acts
as an advisor to or formulates plans for the implementation of broad goals for an administrator or
the Governor; (2) is in charge of a major administrative component of the agency; ~~and~~ or (3)
reports directly and is directly accountable to ~~an~~ the administrator or the Governor;

~~(m)~~ (o) "Position" means ~~a particular job which has been classified based on specifications~~
an authorized and identified group of duties and responsibilities assigned by the hiring authority
requiring the full-time or part-time employment of at least one person;

(p) "Promotion" means a change in the status of an employee from a position to another of
higher rank as measured by salary range and increased level of duties or responsibilities;

~~(n)~~ (q) "Secretary" means the Secretary of the Department of Administration created in
~~section two, article one, chapter five-f~~ §5F-1-2 of this code;

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

~~(p) (r) "Veteran" means any person who has served in the Armed Forces of the United States of America during World War I (April 6, 1917—November 11, 1918), World War II (December 7, 1941—December 31, 1946), the Korean Conflict (June 27, 1950—January 31, 1955), the Vietnam Conflict (August 5, 1964—May 7, 1975) or in a campaign, expedition or conflict for which a campaign badge has been authorized and received by such person and who has received a discharge under honorable conditions from such service meets the requirements of §6-13-1 of this code.~~

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

~~(a) The classified-exempt service includes all positions included in the classified-exempt service on the effective date of this article.~~

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

~~(c) (a) The following offices and positions are exempt from coverage under the classified service and positions are exempt from the Division of Personnel:~~

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

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

~~(3) All officers elected by popular vote, and employees of the officer those appointed to such positions, and all employees of those officers including all employees of the constitutional officers listed in section one, article VII of the constitution of this state;~~

(4) All secretaries of departments and employees within the office of a secretary pursuant to §5F-2-2(a)(1) of this code;

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

(6) Patients or inmates employed in state institutions;

(7) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investigation or examination on behalf of the Legislature or a committee thereof, an executive a department, affiliated county or municipal agency or by authority of the Governor;

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

(9) Temporary employees;

(10) Members and employees of the board of trustees and board of directors or their successor agencies; and

(11) Uniformed personnel of the State Police;

(b) The following offices and positions, in addition to those specifically made classified-exempt by statute, are in the classified-exempt service:

~~(6) (1) Excluding the policy-making positions in an agency~~ One principal assistant or deputy and one private secretary for each board or commission or head of ~~a department~~ an agency elected or appointed by the Governor or Legislature, unless specifically exempted by statute;

~~(7) (2) All policy-making positions, which includes newly hired~~ all Deputy Commissioners within the Department of Health and Department of Human Resources Services, unless specifically exempted by statute;

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

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

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

~~(14)~~ (3) Part-time professional personnel engaged in professional services without administrative duties;

~~(12) Temporary employees;~~

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

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

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

~~(16)~~ (4) Any person hired as an attorney beginning July 1, 2022; and

(5) Any employee transferred into the classified-exempt service pursuant to any other provision of this code.

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

appointees, or to help the Governor or the Governor's appointees communicate with and explain their policies and views to the public, the Legislature, and the press.

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

§29-6-5. Division of Personnel continued; functions.

(a) The Division of Personnel is continued within the Department of Administration.

(b) The Division of Personnel shall perform the following functions:

(1) Evaluating applicants for appointment or promotion to positions in the classified service subject to the requirements of §5B-1-2, §5B-2-1, §5B-2i-4, §5F-2-8, §5F-2-9, §5F-2-10, and §29-1-1a of this code;

(2) Establishing and applying, in consultation with the appointing authorities, a system of classification for positions in the classified ~~and classified-exempt service~~ including, as needed, department-specific classifications and positions;

(3) Establishing and applying a system of compensation for positions in the classified service;

(4) Establishing and maintaining records of employment for classified employees;

(5) Advising appointing authorities and supervisory personnel regarding disciplinary matters, the provisions of this article, rules implementing the provisions of this article, and laws and rules affecting human resource management;

(6) Providing training in human resource management and the operation of the state personnel ~~system~~ systems;

(7) Assuring compliance with this article and rules implementing the provisions of this article;

(8) Accessing performance and disciplinary records of all classified and classified-exempt employees and serving as a central clearinghouse pertaining to employment eligibility for positions in state service; and

(9) Assisting departments and agencies in marketing and advertising available positions in the classified-exempt system;

(10) Assisting departments in creating categories and general job descriptions for positions in the classified-exempt system; and

~~(8)~~ (11) Other functions necessary to the establishment of a system of personnel administration as provided in this article.

§29-6-6. State Personnel Board continued; members; term; quorum; vacancies; powers and duties terminated; transfer of records, assets, equipment, powers, duties, and responsibilities.

The State Personnel Board is hereby terminated, and all of the board's records, assets, equipment, powers, duties, and responsibilities—including the authority to promulgate or repeal any rule of the board under § 29A-3-1 et seq. of this code—shall be transferred to the Director of the Division of Personnel.

~~(a) There is continued within the Division a State Personnel Board consisting of the Secretary of the Department of Administration or his or her designee who serves as an ex officio nonvoting member and five members appointed by the Governor, with the advice and consent of the Senate, for terms of four years and until the appointment of their successors. No more than four members may be of the same political party. Four members of the board constitute a quorum.~~

~~(b) A member of the board may not be removed from office except for official misconduct, incompetence, neglect of duty, gross immorality or malfeasance and then only in the manner~~

~~prescribed in article six, chapter six of this code for the removal by the Governor of state elected officers.~~

~~(c) Citizen members of the board shall each be compensated for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties, as recommended by the Citizens Legislative Compensation Commission as authorized by law, and may be reimbursed actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of official duties in a manner consistent with guidelines of the Travel Management Office of the Department of Administration.~~

~~(d) The Secretary of the Department of Administration or his or her designee serves as Chair of the Board. The Board shall meet at the time and place specified by the call of the Chair. At least one meeting shall be held in each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the Director at least three days in advance of the meeting period.~~

~~(e) In addition to other powers and duties invested in it by this article or by any other law, the board shall:~~

~~(1) Propose rules for legislative approval, in accordance with chapter twenty-nine-a of this code, to implement the provisions of this article;~~

~~(2) Interpret the application of this article to any public body or entity; and~~

~~(3) Authorize and conduct any studies, inquiries, investigations or hearings in the operation of this article it considers necessary.~~

~~(f) The Director or the Board may subpoena and require the attendance of witnesses in the production of evidence or documents relevant to any proceeding under this article.~~

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

(a) The Secretary of the Department of Administration shall appoint the director. The director shall be a person knowledgeable of the application of the merit principles in public employment as evidenced by the obtainment of a degree in business administration, personnel

administration, public administration or the equivalent or ~~at least five years of~~ adequate administrative experience. The salary for the director shall be that which is set out in ~~section two-a, article seven, chapter six~~ §6-7-2a of this code.

(b) The director shall:

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

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

~~(3) Supervise payrolls and audit payrolls, reports or transactions for conformity with the provisions of this article;~~

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

~~(5) (4) Supervise~~ Prescribe and provide training and consultation to appointing authorities regarding the employee selection process and employ performance evaluation procedures;

~~(6) (5) Develop programs to improve efficiency and effectiveness of the public service, including, but not limited to, employee training, development, assistance and incentives, which, notwithstanding any provision of this code to the contrary, may include a one-time monetary incentive~~ incentives for recruitment and retention of employees; ~~in critically understaffed classifications. The director, in consultation with the board, shall determine which classifications are critically understaffed. The one-time monetary incentive program shall continue until June 30, 2009. The director shall report annually on or before December 31, commencing in the year 2007, to the Joint Committee on Government and Finance. The annual report shall provide all relevant information on the one-time monetary incentive program and the understaffed classifications in state agencies;~~

~~(7) (6) Establish pilot programs and other projects for a maximum of one year outside of the provisions of this article, subject to approval by the board, to be included in the annual report;~~

~~(8) Establish and provide for a public employee interchange program and may provide for a voluntary employee interchange program between public and private sector employees.~~

(7) Establish and apply, in consultation with appointing authorities, department-specific classification and compensation plans for classified employees;

~~(9)~~ (8) Establish an internship program;

~~(10)~~ (9) Assist the Governor and Secretary of the Department of Administration in general workforce planning and other personnel matters;

~~(11)~~ (10) Make an annual report to the Governor and Legislature and all other special or periodic reports as may be required;

~~(12)~~ (11) Assess ~~cost~~ costs for special or other services; and

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

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

(12) Improve the effectiveness and efficiency of state government through the development of a skilled workforce by providing:

(A) Classroom and online training programs for employees and managers;

(B) Coaching services to improve the performance of employees, managers, and executives; and

(C) Consulting to foster higher competency in critical managerial functions, ensure that public funds are expended judiciously, and promote respectful and satisfying customer service.

§29-6-8. Duties of board generally.

[Repealed.]

§29-6-9. Civil service commission abolished; transfer of duties and responsibilities; rule of construction; transfer of employees, equipment, and records; continuation of programs, protections and rules.

[Repealed.]

§29-6-10. ~~Rules of division~~ Rule-making authority.

(a) ~~The board~~ The division shall have the authority to promulgate, amend, interpret, or repeal rules, according to ~~chapter twenty-nine-a~~ pursuant to §29A-3-1 et seq. of this code, to implement the provisions of this article:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, including, as needed, department-specific classifications and positions ~~and a position classification plan for all positions in the classified-exempt service, based upon similarity of duties performed and responsibilities assumed. so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. Except for persons employed by the governing boards of higher education, all persons receiving compensation as a wage or salary, funded either in part or in whole by the state, are included in either the position classification plan for classified service or classified-exempt service. After each such classification plan has been approved by the board director and the head of the department,~~ the director shall allocate the every position ~~of every~~ employee in the classified service to one of the classes in the classified plan. ~~and the position of every employee in the classified-exempt service to one of the positions in the classified-exempt plan.~~ Any employee affected by the allocation of a position to a class shall, after filing with the director of personnel a written request for reconsideration thereof in such manner and form as the director may prescribe, be given a reasonable opportunity to be heard thereon by the director. The interested appointing authority shall be given like opportunity to be heard.

(2) For the preparation, maintenance and revision of a pay plan for all employees in the classified service, including as needed, department-specific classifications and positions, after consultation with appointing authorities and the state fiscal officers. ~~and after a public hearing held by the board.~~ Such pay plan shall become effective only after it has been approved approval by the Governor. ~~after submission to him by the board.~~ Amendments to the pay plan may be made in the

25 same manner. Each classified employee shall be paid at one of the rates set forth in the pay plan
26 for the class of position in which he or she is employed. The principle of equal pay for equal work in
27 ~~the several agencies of the state government~~ shall be followed in the pay plan as established
28 hereby. The Governor or his or her designee shall have authority to restrict the implementation of
29 annual adjustments of the pay plan as necessitated by fiscal constraints.

30 (3) ~~For open competitive examinations to test the relative fitness~~ the open competition of
31 applicants for the respective positions in the classified service. ~~Such examinations need not be~~
32 ~~held until after the rules have been adopted, the service classified and a pay plan established, but~~
33 ~~shall be held not later than one year after this article takes effect.~~ Such examinations competition
34 may be by examination or by review of the training, experience and other qualifications required
35 for a position and shall be announced publicly at least ~~fifteen~~ five calendar days in advance of the
36 date fixed for the filing of applications therefor, and may be advertised through the press, radio,
37 ~~and~~ or other media. The director may, however, in his or her discretion, continue to receive
38 applications and examine candidates long enough to assure a sufficient number of ~~eligibles~~
39 eligible candidates to meet the needs of the service and may add the names of ~~successful~~ eligible
40 candidates to existing eligible lists in accordance with their respective ratings.

41 ~~An additional five points shall be awarded to the score of any examination successfully~~
42 ~~completed by a veteran.~~ Any veteran shall have an additional five points added to his or her
43 examination or review score: *Provided, That* a disabled veteran shall be entitled to an additional
44 ten points, rather than five points. ~~as aforesaid, upon successful completion of any examination.~~

45 (4) For promotions within the classified service which shall ~~give appropriate consideration~~
46 ~~to~~ consider the applicant's qualifications, record of performance, seniority and his or her score on a
47 written examination, when such examination is practicable. ~~An advancement in rank or grade or~~
48 ~~an increase in salary beyond the maximum fixed for the class shall constitute a promotion.~~ When
49 any benefit such as a promotion, wage increase or transfer is to be awarded, or when a withdrawal
50 of a benefit such as a reduction in pay, a layoff or job termination is to be made, and a choice is

51 required between two or more employees in the classified service as to who will receive the benefit
52 or have the benefit withdrawn, and if some or all of the eligible employees have substantially equal
53 ~~or similar qualifications~~ and records of performance, consideration shall be given to the level of
54 seniority of each of the respective employees as a factor in determining which of the employees
55 will receive the benefit or have the benefit withdrawn, as the case may be. ~~When an employee~~
56 ~~classified in a secretarial or clerical position has, irrespective of job classification, actual job~~
57 ~~experience related to the qualifications for a managerial or supervisory position, the division shall~~
58 ~~consider the experience as qualifying experience for the position.~~ The division in its classification
59 plans may, for designated classifications, permit substitution of qualifying experience for specific
60 educational or training requirements at a rate determined by the ~~division~~ director.

61 (5) ~~For layoffs by classification for reason of lack of funds or work, or abolition of a position,~~
62 ~~or material changes in duties or organization, or any loss of position because of the provisions of~~
63 ~~this subdivision~~ due to business necessity and for recall of employees so laid off, consideration
64 shall be given to an employee's seniority as measured by permanent employment in the classified
65 service or a state agency. In the event that the agency wishes to lay off a more senior employee,
66 the agency must demonstrate that the senior employee cannot perform ~~any other~~ the job duties of
67 a position held by less senior employees within that agency in the job class or any other equivalent
68 or lower job class for which the senior employee is qualified: *Provided*, That if an employee refuses
69 to accept a position in a lower job class, such employee shall retain all rights of recall as
70 hereinafter provided.

71 (6) For recall of employees, recall shall be by reverse order of layoff to any job class that
72 the employee has previously held or a lower class in the series within the agency as that job class
73 becomes vacant. An employee will retain his or her place on the recall list for the same period of
74 time as his or her seniority on the date of his or her layoff or for a period of two years, whichever is
75 less. No new employees shall be hired for any vacancy in his or her job class or in a lower job class
76 in the series until all eligible employees on layoff are given the opportunity to refuse that job class.

An employee shall be recalled ~~onto~~ into jobs within the county wherein his or her last place of employment is located or within a county contiguous thereto. Any laid-off employee who is eligible for a vacant position shall be notified by certified mail of the vacancy. It shall be the responsibility of the employee to notify the agency of any change in his or her address.

~~Notwithstanding any other provision of the code to the contrary, except for the provisions of section seven, article two, chapter five b of this code, when~~

(A) When filling vacancies in the classified system ~~at state agencies the directors of state agencies the appointing authority~~ shall, for a period of twelve months after the layoff of a permanent classified employee in another agency, give preference to qualified permanent classified employees based on seniority and fitness over all but existing employees of the agency or its facilities. ~~: Provided, That employment~~

(B) Employment of these persons who are qualified and who were permanently employed immediately prior to their layoff shall not supersede the recall rights of employees who have been laid off in such agency or facility.

(7) For the establishment of ~~eligible lists~~ of eligible candidates for appointment and promotion within the classified service. ~~upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations.~~ Eligibility for appointment from any such list shall continue for not longer than three years. An appointing authority shall make his or her selection from the top ~~ten~~ 20 names on the appropriate lists of ~~eligibles~~ eligible candidates or may choose any person scoring at or above the ~~ninetieth~~ 80th percentile on the examination.

(8) For the establishment of eligible lists of eligible candidates for preference as provided in subdivision (6) of this section, a list shall be provided according to seniority. An ~~appointed~~ appointing authority shall make the selection of the most senior qualified person: *Provided, That* eligibility for appointment from any such list shall continue not longer than one year and shall cease immediately upon appointment to a classified position.

103 ~~(8)~~ (9) For the rejection of candidates or ~~eligibles~~ within the classified, classified-exempt,
104 and exempt service who fail to comply with reasonable requirements ~~in regard to~~ regarding such
105 factors as age, physical condition, character, criminal background, training, ~~and~~ or experience,
106 who are addicted to alcohol or narcotics or who have attempted any deception or fraud in
107 connection with an examination.

108 ~~(9)~~ (10) For a ~~period of probation~~ probationary period not to exceed one year before
109 appointment or ~~promotion~~ may be made ~~complete~~ permanent within the classified service.

110 ~~(10)~~ (11) For provisional employment without competitive examination within the classified
111 service when there is no appropriate ~~eligible~~ list of eligible candidates available. ~~No such~~
112 ~~provisional employment may continue longer than six months, nor shall successive provisional~~
113 ~~appointments be allowed, except during the first year after the effective date of this article, in order~~
114 ~~to avoid stoppage of orderly conduct of the business of the state.~~

115 ~~(11)~~ (12) For ~~keeping~~ the maintenance of records of performance of all employees in the
116 classified service, which service records may be considered in determining salary increases and
117 decreases provided in the pay plan; as a factor in ~~promotion tests~~ promotions; ~~as a factor in~~
118 ~~determining the order of layoffs because of lack of funds or work and in reinstatement~~; and as a
119 factor in suspensions, demotions, ~~discharges~~ dismissals and transfers.

120 ~~(12)~~ (13) For ~~discharge~~ dismissal or reduction in rank or grade only for cause of
121 employees in the classified service. ~~Discharge~~ Dismissal or reduction of these employees shall
122 take place only after the person to be ~~discharged~~ dismissed or reduced has been presented with
123 the reasons for such ~~discharge~~ dismissal or reduction stated in writing, and has been allowed a
124 reasonable time to reply thereto in writing, or upon request to appear personally and reply to the
125 appointing authority or his or her ~~deputy~~ designee: *Provided*, That upon an involuntary ~~discharge~~
126 dismissal for cause, the employer may require immediate separation from the workplace, or the
127 employee may elect immediate separation. If separation is required by the employer in lieu of any
128 advance notice of ~~discharge~~ dismissal, or if immediate separation is elected by an employee who

receives notice of an involuntary ~~discharge~~ dismissal for cause, the employee is entitled to receive severance pay attributable to time the employee otherwise would have worked, up to a maximum of fifteen calendar days following separation. Receipt of severance pay does not affect any other right to which the employee is entitled with respect to the ~~discharge~~ dismissal. The statement of reasons for the dismissal and ~~the~~ any reply shall be filed as a public record with the director. Notwithstanding the foregoing provisions of this subdivision, no permanent employee shall be ~~discharged~~ dismissed from the classified service for absenteeism ~~upon using all entitlement to~~ solely due to exhausting all annual leave and sick leave when such use has been due to illness or injury as verified by a physician's certification or for other extenuating circumstances beyond the employee's control ~~unless~~ except when his or her disability is of such a nature as to permanently incapacitate him or her from the performance of the duties of his or her position or renders his or her services unreliable. Upon exhaustion of annual leave and sick leave ~~credits~~ for the reasons specified herein and with certification by a physician that the employee is temporarily unable to perform his or her duties, a permanent employee shall be granted a medical leave of absence without pay for a period not to exceed six months: Provided, That if such employee is not permanently unable to satisfactorily perform the duties of his or her position. Probationary and permanent state employees shall be eligible for a medical leave of absence without pay for the period of time during which he or she is receiving temporary total disability benefits for a personal injury that occurred in the course of and resulting from state employment.

(14) For facilitating the efficient hiring, allocation, and assignment of personnel by the departments and agency heads;

(15) For a program under which annual leave accrued or accumulated by an employee of an agency may, if voluntarily agreed to by the employee, be donated to another designated employee if the other employee has exhausted his or her leave because of a medical emergency: Provided, That none of the leave so transferred may be used to qualify for or add to service for any retirement system administered by the State of West Virginia; and

(13) (16) For such other rules and administrative regulations, not inconsistent with this article, as may be proper and necessary for its enforcement.

(14) (b) The ~~board~~ director shall periodically review ~~and approve by rules~~ the establishment of all classified-exempt positions by the departments and agencies of the state to assure ~~ensure~~ consistent interpretation of the provisions of this article.

(c) The provisions of this section are subject to any modifications contained in ~~chapter five-~~ §5F-1-1 et seq. of this code. The ~~board~~ division may include in the rules provided for in this article such provisions as are necessary to conform to regulations and standards of any federal agency governing the receipt and use of federal grants-in-aid by any state agency, anything in this article to the contrary notwithstanding. The ~~board and the~~ director shall see that rules and practices meeting such standards are in effect continuously after the effective date of this article.

(d) Nothing in the rules provided for in this section may conflict with the requirements of §5B-1-2, §5B-2-1, §5B-2i-4, §5F-2-8, §5F-2-9, §5F-2-10, or §29-1-1a of this code.

§29-6-10a. Reduction in work force.

[Repealed.]

§29-6-14. Certification of payrolls; wrongfully withholding certification of payroll.

[Repealed.]

§29-6-16. Records of division.

The records of the division shall be subject to the Freedom of Information Act in §29B-1-1 et seq., of this code and the personal information of employees and applicants shall be subject to the exemption from disclosure under §29B-1-4(a)(2) of this code. ~~except such records as the rules may properly require to be held confidential for reasons of public policy, shall be public records and shall be open to public inspection, subject to reasonable regulations as to the time and manner of inspection which may be prescribed by the director.~~

§29-6-24. Posting of job openings.

1 (a) Whenever a job opening occurs within the classified service, the appointing authority
2 shall, in addition to any other requirement of law or regulation for the posting of job opening
3 notices, at least ~~ten~~ five calendar days before making an appointment to fill the job opening, post a
4 notice within the building or facility where the duties of the job will be performed and throughout the
5 agency, or through electronic or social media readily available to the public and the employees of
6 the agency, which notice states that a job opening has occurred and describes the duties to be
7 performed by a person employed in that position..

8 (b) If an individual selected for a posted vacancy within the first ~~ten work~~ 30 calendar days
9 of employment: (1) ~~Refuses~~ refuses the offer of employment; (2) fails to report to work; or (3)
10 resigns or otherwise separates from employment, the appointing authority is not required to repost
11 the vacancy prior to another appointment to the position if the appointment is made within ~~thirty~~ 60
12 calendar days and the selection is made from the pool of eligible applicants from which the first
13 employee was hired.

§29-6-25. Implementation; report to Governor and Legislature.

1 [Repealed.]

§29-6-27. Leave donation program.

1 [Repealed.]

CHAPTER 49. CHILD WELFARE.

**ARTICLE 10. ELIMINATING THE BUREAU OF SOCIAL SERVICES EXEMPTION
FROM WEST VIRGINIA THE DIVISION OF PERSONNEL.**

§49-10-101. Legislative findings.

1 ~~The Legislature finds the State of West Virginia is experiencing a child welfare crisis. From~~
2 ~~2016 to 2020, the child protective service vacancy rate has increased from 9.7 percent to 33~~
3 ~~percent. This significant lack of staffing has caused a delay in response times to begin~~
4 ~~investigations. During the same time period, the average hours to start a child protective service~~

~~investigation after referral went from 119.1 hours in 2016 to now averaging 428.1 hours in 2020. This significant failure to begin the investigation can and has cost lives. The Legislature finds that the Bureau for Social Services is having extreme difficulty recruiting and retaining child protective service workers, youth service workers, adult protective service workers, and other related workers, including necessary casework support personnel and managers at the county level, who assist in the provision of services to vulnerable populations.~~

(a) Legislative findings and intent. –

(1) The several exemptions from centralized administration of the state's personnel have created multiple, redundant, inefficient, and overly complex personnel and human resources systems in several parts of state government; and

(2) Shifting to a centralized oversight system that includes necessary flexibility for all state departments—instead of a few favored agencies—would facilitate the streamlining of state government and ensure the proper management of the state executive personnel systems.

(b) Beginning on July 1, 2026, the Bureau for Social Service's authority to establish a classified system for personnel administration under this article is hereby abolished and all personnel within the classified system created under this article shall be subject to the provisions of §29-6-1 et seq. of this code except that:

(1) Any and all job classifications, specifications, and compensation structures established, created, fixed, effective, produced, or made by the bureau, prior to July 1, 2026, by the authority granted under this section, shall transfer to the oversight and administration of the Division of Personnel; and

(2) Following the transfer, the Division of Personnel shall not modify the job classifications, specifications, and compensation structures created pursuant to this article prior to July 1, 2026, except with the consent of the Secretary of the Department of Human Services or as provided in §5F-2-10 of this code.

§49-10-102. Bureau for Social Service employees exempt from Division of Personnel.

1 [Repealed.]

§49-10-103. Bureau for Social Service employees no requirement uniformity in pay scale.

1 [Repealed.]