WEST VIRGINIA CODE: §29-22-8

§29-22-8. Lottery director; powers and duties; deputy directors; hiring of staff; civil service coverage; submission of proposed appropriations.

(a) The director shall have the authority to:

(1) Appoint, with the approval of the commission, a deputy director for each of the divisions established in this article. The deputy directors appointed shall serve at the will and pleasure of the director at an annual salary established by the commission. Deputy directors shall not be eligible for civil service coverage as provided in §29-6-4 of this code;

(2) The director shall hire, pursuant to the approval of the commission, such professional, clerical, technical, and administrative personnel as may be necessary to carry out the provisions of this article. Each person employed by the commission shall execute an authorization to allow an investigation of that person's background: *Provided*, That the director and the commission shall apply §29-22-8(d) and §29-22-8(e) of this code in determining whether an applicant's prior criminal convictions bear a rational nexus to the occupation being sought.

(3) Designate the number and types of locations at which tickets may be sold.

(b) Effective July 1, 1986, all employees of the commission, except as otherwise provided herein, shall be in the classified service under the provisions of §29-6-1 *et seq.* of this code.

(c) The director shall, pursuant to the approval of the commission, prepare and submit the annual proposed appropriations for the commission to the Governor.

(d) The director and the Lottery Commission may not disqualify an applicant from initial employment because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the activity required for employment. In determining whether a criminal conviction bears a rational nexus to a profession or occupation, the director and the Lottery Commission shall consider at a minimum:

(1) The nature and seriousness of the crime for which the individual was convicted;

(2) The passage of time since the commission of the crime;

(3) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the profession or occupation; and

(4) Any evidence of rehabilitation or treatment undertaken by the individual.

(e) Notwithstanding any other provision of this code to the contrary, if an applicant is disqualified from employment because of a prior criminal conviction, the director and the

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Lottery Commission shall permit the applicant to apply for initial employment if:

(1) A period of five years has elapsed from the date of conviction or the date of release from incarceration, whichever is later;

(2) The individual has not been convicted of any other crime during the period of time following the disqualifying offense; and

(3) The conviction was not for an offense of a violent or sexual nature: *Provided*, That a conviction for an offense of a violent or sexual nature may subject an individual to a longer period of disqualification from employment, to be determined by the Lottery Commission.

(f) An individual with a criminal record who has not previously applied for employment may petition the Lottery Commission at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining employment. This petition shall include sufficient details about the individual's criminal record to enable the Lottery Commission to identify the jurisdiction where the conviction occurred, the date of the conviction, and the specific nature of the conviction. The Lottery Commission shall provide the determination within 60 days of receiving the petition from the applicant. The Lottery Commission may charge a fee to recoup its costs for each petition.

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