

# WEST VIRGINIA CODE: §29-6-4

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

**NOTE:** West Virginia Code §29-6-4 was amended by two bills passed during the 2022 Regular Session of the Legislature. When two acts of the Legislature amend the same section of the Code without express recognition in the bill of the action of the other bill, the Legislative Manager makes no determination as to the appropriate, legal effect of the two acts. Therefore, BOTH versions of this section are set out below.

The latter act, House Bill 4059 (passed on March 12, 2022), amended West Virginia Code §29-6-4 to read as follows:

(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) The following offices and positions are exempt from coverage under the classified service:

- (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;
- (4) All secretaries of departments and employees within the office of a secretary;
- (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) 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 elected or appointed by the Governor or Legislature;
- (7) All policy-making positions, which includes newly hired Deputy Commissioners within the Department of Health and Human Resources;
- (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;

(11) 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) Any person hired as an attorney beginning July 1, 2022.

(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.

**The earlier act, House Bill 4286 (passed on March 7, 2022) amended West Virginia Code §29-6-4 to read as**

**follows:**

(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) The following offices and positions are exempt from coverage under the classified service:

- (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;
- (4) All secretaries of departments and employees within the office of a secretary;
- (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) 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 elected or appointed by the Governor or Legislature;
- (7) All policy-making positions;
- (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;
- (11) 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) Any person hired as an attorney beginning July 1, 2022.

(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.