
WEST VIRGINIA CODE CHAPTER 5
ARTICLE 1D

WV Legislature

§5-1D-1. Findings and purposes.

The Legislature finds and declares that fiscal risk analysis and management is essential to finding practical solutions to the everyday problems of government and that the management goals and purposes of government would be furthered by the development of a consistent set of fiscal risk analysis and management principles. Therefore, it is the purpose of this article to create, as an integral part of the office of the Governor, the office of fiscal risk analysis and management, with the authority to advise and make recommendations to all state spending units on fiscal risk analysis and management functions and decisions with potential long term fiscal impact of an amount of at least \$1 million: Provided, That the authority shall advise and make recommendations to the Public Employees Insurance Agency, the Consolidated Public Retirement Board, workers' compensation and the board of Risk and Insurance Management on fiscal risk analysis and management functions and decisions with potential long term fiscal impact of any increases of program costs in excess of five percent.

§5-1D-2. Definitions.

As used in this article:

(a) "Chief risk officer" means the person appointed to the position created in section three of this article and who is vested with authority to assist state spending units in planning and coordinating fiscal risk analysis and management activities that serve the effectiveness and efficiency of the individual state spending units, state executive agencies and further the overall management goals and purposes of government.

(b) "Fiscal risk analysis and management" means issues that arise out of the day-to-day operations of state government that put at fiscal risk the people, property or other assets of the state, the overall operation of state government and its ability to carry and acceptance of fiscal risks on decisions with potential fiscal impact of an amount of at least \$1 million: Provided, That the authority shall advise and make recommendations to the Public Employees Insurance Agency, the Consolidated Public Retirement Board, workers' compensation and the board of Risk and Insurance Management on fiscal risk analysis and management functions and decisions with potential long term fiscal impact of any increases of program costs in excess of five percent.

(c) "Fiscal impact" means any anticipated budgetary or other financial impact that may result from the proposed expenditure, decision, or undertaking.

§5-1D-3. Creation of the office of fiscal risk analysis and management; appointment and qualifications of chief risk officer.

(a) There is hereby created the office of fiscal risk analysis and management within the office of the Governor. The office shall be administered by the chief risk officer who shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the will and pleasure of the Governor. The chief risk officer shall have knowledge in the area of self-insured risk pools, advanced training in the area of fiscal risk management and an understanding of the special demands upon government with respect to budgetary constraints, the protection of public funds, and federal and state standards of accountability.

(b) The chief risk officer may employ the personnel necessary to carry out the work of the office and may approve reimbursement of costs incurred by employees to obtain education and training.

§5-1D-4. Powers and duties of the office to all state spending units.

With respect to all state spending units, the office of fiscal risk analysis and management:

- (1) Shall develop an organized approach to fiscal risk analysis and management;
- (2) Shall provide, with the assistance of certain executive branch agencies, technical assistance to the administrators of the various state spending units in the design and implementation of fiscal risk analysis and management procedures and systems;
- (3) Shall evaluate, with the assistance of certain executive branch agencies, the economic justification and suitability of acceptable fiscal risk levels, the management thereof, and related services and review and make recommendations on the need for acquisition of fiscal risk analysis, management consulting and actuarial services by the state spending units;
- (4) Shall develop a mechanism for identifying those instances in which the sound application of fiscal risk analysis and management principles can assist agencies in reducing their exposure to or frequency of loss;
- (5) Shall create new tools to assist agencies of government in fulfilling their duties, convene conferences and develop incentive packages to encourage the use of sound fiscal risk management principles;
- (6) Shall engage in any other activities reasonably related to the findings and purposes set forth in section one of this article, as directed by the Governor; and
- (7) Shall charge a fee to be assessed by the chief risk officer to the state spending units for evaluations performed and technical assistance provided under the provisions of this article.

§5-1D-5. Powers and duties of the office to executive agencies.

With respect to executive agencies, the office of fiscal risk analysis and management:

- (1) Shall develop a unified and integrated structure of fiscal risk management for all state executive agencies that must be completed by July 1, 2002;
- (2) May establish, based on need and opportunity, priorities and time lines for addressing the fiscal risk analysis requirements of the various executive agencies of state government;
- (3) Shall exercise such authority inherent to the chief executive of the state as the Governor may, by executive order, delegate, to overrule and supersede decisions made by the administrators of the various executive agencies of government with respect to fiscal risk analysis and management decisions and the acquisition of fiscal risk management services, including, but not limited to, management consulting contracts and contracts for actuarial and related services: Provided, That the provisions of this subdivision do not exempt the various executive agencies from complying with the provision of this code regarding audits and actuarial studies.
- (4) Shall consult and work closely with staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies.

§5-1D-6. Fees.

All fees collected by the office of fiscal risk analysis and management shall be deposited in a special account in the State Treasury to be known as the "Office of Fiscal Risk Analysis and Management Administration Fund." Expenditures from the fund shall be made by the chief risk officer for the purposes set forth in this article and are not authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found from time to time to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and used for other purposes by appropriation of the Legislature.

§5-1D-7. Notice of request for proposals by state spending units required to make purchases through the state Purchasing Division.

Any state spending unit that is required to submit a request for proposal to the state Purchasing Division prior to purchasing goods or services shall notify the chief risk officer, in writing, of any proposed purchases of goods or services related to fiscal risk analysis and management, including, but not limited to, management consulting, actuarial or other contracts that involve the management or fiscal risk evaluation of the spending unit with potential fiscal impact of an amount of at least \$1 million. The notice shall contain a brief description of the goods and services to be purchased. The state spending unit shall provide the notice to the chief risk officer ten days prior to its submission of its request for proposal to the state Purchasing Division.

§5-1D-8. Notice of request for proposals by state spending units exempted from submitting purchases to the state Purchasing Division.

(a) Any state spending unit that is not required to submit a request for proposal to the state Purchasing Division prior to purchasing goods or services shall notify the chief risk officer, in writing, of any proposed purchase of goods or services related to fiscal risk analysis and management, including, but not limited to, management consulting, actuarial or other contracts that involved the management or fiscal risk evaluation of the spending unit with potential fiscal impact of an amount of at least \$1 million. The notice shall contain a detailed description of the goods and services to be purchased. The state spending unit shall provide the notice to the chief risk officer a minimum of ten days prior to the time it requests bids on the provision of the goods or services.

(b) If the chief risk officer evaluates the suitability of the related services under the provisions of subsection (3), section four of this article and determines that the goods or services to be purchased or the price requested for the same are not suitable, he or she shall, within ten days of receiving the notice from the state spending unit, notify the state spending unit, in writing, of any recommendations he or she has regarding the proposed purchase of the goods or services. If the state spending unit receives a written notice from the chief risk officer within the time period required by this section, the state spending unit shall not put the goods or services out for bid less than fifteen days following receipt of the notice from the chief fiscal management officer.

§5-1D-9. Annual report.

The chief risk officer shall report annually to the legislative Joint Committee on Government and Finance on the activities of his or her office.

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§5-1D-10. Exemptions.

Except for the provisions of section four of this article, the provisions of this article do not apply to the legislative or judicial branches of state government, unless either the legislative or the judicial branch shall request services from the Governor's office of fiscal risk analysis and management.

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§5-1D-11.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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