WEST VIRGINIA CODE: §5F-2-2

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

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

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

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

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

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

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

(6) Reorganize internal functions or operations;

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

(8) Enter into contracts or agreements requiring the expenditure of public funds and authorize the expenditure or obligation of public funds as authorized by law: *Provided*, That the powers granted to the secretary to enter into contracts or agreements and to make expenditures or obligations of public funds under this provision shall not exceed or be interpreted as authority to exceed the powers granted by the Legislature to the various commissioners, directors, or board members of the various departments, agencies, or boards that comprise and are incorporated into each secretary's department under this chapter;

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

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(10) Conduct internal audits;

(11) Supervise internal management;

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

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

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

(15) Enter into memoranda of understanding; and

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

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

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

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

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

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

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

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

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, none of the powers granted to the secretaries shall be exercised by the secretary if to do so would

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violate or be inconsistent with the provisions of any federal law or regulation, any federal-state program or federally delegated program or jeopardize the approval, existence, or funding of any program.

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

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

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