WEST VIRGINIA CODE CHAPTER 5a ARTICLE 6

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§5A-6-1. Findings and purposes.

The Office of Technology is hereby continued as an integral part of the Department of Administration, for the purpose of establishing and developing information technology services for state agencies and promulgating information technology standards. The Office of Technology is authorized to advise and make recommendations to all state spending units on state information systems and to have the authority to oversee coordination of the state's technical infrastructure. Beginning July 1, 2024, the Information Services and Communications Division created under the Department of Administration is hereby dissolved and its functions assumed by the West Virginia Office of Technology.

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§5A-6-2. Definitions.

As used in this article:

“Information systems” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

“Information technology” means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

“Technology services” means professional services designed to provide functions, maintenance, and support of information technology devices, or services including, but not limited to, computer systems application development and maintenance; systems integration and interoperability; operating systems maintenance and design; computer systems programming; computer systems software support; planning and security relating to information technology devices; data management consultation; information technology education and consulting; information technology planning and standards; and establishment of local area network and workstation management standards.

“Telecommunications” means the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means.

“Chief Information Officer” means the person holding the position created in §5A-6-3 of this code and vested with authority to oversee state spending units in planning and coordinating information systems that serve the effectiveness and efficiency of the state and individual state spending units, and further the overall management goals and purposes of government: *Provided*, That reference to “Chief Technology Officer” in other articles of this code shall mean “Chief Information Officer”.

“Technical infrastructure” means all information systems, information technology, information technology equipment, telecommunications, and technology services as defined in this section.

“Technology project” means a project where technology is a significant component and is either valued at $250,000 or more, or will involve sensitive or restricted data.

“Steering committee” means an internal agency oversight committee established jointly by the Chief Information Officer and the agency proposing the project, which shall include representatives from the Office of Technology and at least one representative from the agency proposing the project.

“Technology portfolio” means a strategic management process documenting relationships

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between agency missions and information technology and telecommunications investments.

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§5A-6-3. Office of Technology; Chief Information Officer; appointment and qualifications; continuation of special funds.

(a) The Office of Technology is continued within the Department of Administration, to be led by a Chief Information Officer, who shall be appointed by and serve at the will and pleasure of the Governor. The Chief Information Officer shall have knowledge in the field of information technology, experience in the design and management of information systems, and an understanding of the special demands upon government with respect to budgetary constraints, the protection of privacy interests, and federal and state standards of accountability.

(b) On July 1, 2024, the administration of the Information Services and Communication Fund created under the former §5A-7-10 of this code is hereby transferred to, and thereafter shall be administered by, the Chief Information Officer of the Office of Technology, and is hereby renamed the Office of Technology Fund. The fund shall be a special revolving fund, consisting of funds received for services provided pursuant to this article and §5A-6B-1 *et seq*. and §5A-6C-1 *et seq*. of this code, and all gifts, grants, bequests or transfers from any source. Expenditures from the fund are authorized from collections for the purposes set forth in this article but are to be made only in accordance with appropriation by the Legislature and with the provisions of §12-3-1, *et seq*. of this code and upon the fulfillment of the provisions set forth in §11B-2-1, *et seq*. of this code. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(c) On July 1, 2024, the Chief Technology Officer Administration Fund created by prior enactment of this section shall be closed, and any unexpended balances remaining in the fund shall be transferred to the Office of Technology Fund.

(d) On July 1, 2024, the Telecommunications Services Payment and Reserve Fund created in the former §5A-7-4a of this code shall be closed, and any unexpended balances remaining in the fund shall be transferred to the Office of Technology Fund.

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§5A-6-4. Powers and duties of the Chief Information Officer generally.

(a) With respect to all state spending units the Chief Information Officer may:

(1) Establish information technology governance to align technology management with departmental and agency business goals, including, but not limited to:

(A) Standards necessary to support a unified approach to information technology across the totality of state government, thereby assuring that the citizens and businesses of the state receive the greatest possible security, value, and user experience from investments made in technology;

(B) Standards relating to the exchange, acquisition, storage, use, sharing, and distribution of data; and

(C) Standards for the connectivity, interoperability, and continuity of technology for government operations in times of disaster or emergency;

(2) Evaluate all information technology requisitions for compatibility with established information technology governance, including evaluation of the economic justification, system design, and suitability;

(3) Develop a mechanism for identifying those instances where information systems should be linked and information shared, while providing for appropriate limitations on access and the security of data;

(4) Broker contracts for or deliver directly information technology and technology services in support of state spending units: *Provided*, That other public bodies may utilize information technology and technology services offered by the Chief Information Officer with approval;

(5) Create new technologies to be used in government, convene conferences, and develop incentive packages to encourage the utilization of technology;

(6) Charge a fee to the state spending units and other public bodies for services provided under the provisions of this article §5A-6B-1 *et seq*. and §5A-6C-1 *et seq*. of this code;

(7) Periodically evaluate the feasibility of subcontracting information technology resources and services, and to subcontract only those resources that are feasible and beneficial to the state;

(8) Develop job descriptions and qualifications necessary to perform duties related to information technology as outlined in this article;

(9) Provide information technology related training to facilitate efficient use of state technology resources;

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(10) Submit resource and support requests to the federal government to support technology or cyber security initiatives or programs;

(11) Engage in any other activities as directed by the Governor; and

(12) Promulgate legislative rules, in accordance with the provisions of §29A-3-1 *et seq*. as may be necessary to standardize and make effective the administration of the provisions of this article.

(b) With respect to executive agencies, the Chief Information Officer may:

(1) Develop a unified and integrated structure for information systems for all executive agencies;

(2) Establish, based on need and opportunity, priorities and timelines for addressing the information technology requirements of executive agencies;

(3) Draw upon staff of other executive agencies for advice and assistance in the formulation and implementation of administrative and operational plans and policies;

(4) Recommend to the Governor transfers of equipment and human resources from any executive agency for the most effective and efficient uses of the fiscal resources of executive agencies to modernize information technology investments;

(5) Provide guidance and services where feasible to support proper cleansing of electronic data;

(6) Develop an information technology recycling program to redistribute or reuse properly cleansed technology equipment. Transfers and disposal of information technology equipment are specifically exempt from the surplus property requirements enumerated in §5A-3-43, §5A-3-44, §5A-3-45, and §5A-3-46 of this code; and

(7)(A) Provide guidance and services to support data retention and electronic discovery of executive agency data in compliance with agency data retention policies and directives: *Provided*, That executive agencies communicate such requirements.

(B) In furtherance of this goal, the Chief Information Officer, in conjunction with the appropriate authority of each executive agency, shall coordinate an effort to ensure that every executive branch agency establishes a written digital document retention and destruction policy to be posted on the agency's website accessible by the public and conducts an annual review of the components of such policy.

(c) The Chief Information Officer may employ the personnel necessary to carry out the work of the Office of Technology and may approve reimbursement of costs incurred by employees to obtain education and training.

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(d) The Chief Information Officer may oversee telecommunications services used by state spending units for the purpose of maximizing efficiency to the fullest possible extent including auditing telecommunications services and usage and negotiation of telecommunications contracts.

(e) The Chief Information Officer shall provide central mail services during regular business hours for state spending units. All state spending units having their offices in the capitol, except the legislative branch of government, shall dispatch all mail through the central mailing office: *Provided*, That mail prepared after gathering time and mail for special handling may be posted without utilizing the central mailing office upon approval of the Chief Information Officer. The Chief Information Officer is authorized to make such expenditures as necessary to process and presort all outgoing mail or to enter contracts to supply the service.

(f) The Chief Information Officer may convene and chair an advisory committee made up of a representative from each of the departments as identified in §5F-1-2 of this code, and any other members deemed necessary by the Chief Information Officer to provide advice and recommendations on technology issues for state agencies.

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§5A-6-4a.

[Repealed.]

Acts, 2019 Reg. Sess., Ch. 123.

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§5A-6-4b. Project management duties of the Chief Information Officer; establishment of the Project Management Office and authority of the Project Management Office.

(a) The Chief Information Officer is authorized to:

(1) Implement an approval process for technology projects proposed by state agencies to ensure that all technology projects conform to the statewide strategic plan and the overall technology strategy of the agency;

(2) Establish a methodology for conceiving, planning, scheduling, and providing appropriate oversight for technology projects, including oversight for the projects and a process for approving the planning, development, and procurement of technology projects; and

(3) Establish steering committees as needed to oversee technology projects.

(b) The Chief Information Officer shall create a Project Management Office within the Office of Technology. The Project Management Office shall:

(1) Implement the approval process for technology projects;

(2) Review technology project proposals submitted by agencies and recommend to the Chief Information Officer the approval of the proposals and any amendments thereto pursuant to §5A-6-4c of this code;

(3) Monitor the implementation of technology projects and periodically report findings to the Chief Information Officer;

(4) Implement technology portfolio management to assist the Chief Information Officer with aligning investment in technology with strategic goals of the state. The standard by which the projects within the technology portfolio will be evaluated are:

(A) Total cost of the project;

(B) Public or citizen interface with the project or number of people affected by the project;

(C) Whether the project is operationally critical to the agency.

(5) Provide oversight for technology projects; and

(6) Establish minimum qualifications and training standards for project managers.

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§5A-6-4c. Technology project proposals and the establishment of steering committees.

(a) Prior to proceeding with a technology project, a state agency shall submit a project proposal to the Project Management Office, outlining the business case, the proposed technology solution, if known, and an explanation of how the project will support the agency's business objective and the state's strategic plan for information technology. The Project Management Office may require the submission of additional information as needed to adequately review any proposal.

(b) The Project Management Office shall make recommendations on proposed projects to the Chief Information Officer for final disposition: *Provided*, That the Chief Information Officer may delegate approval authority.

(c) If the Chief Information Officer deems necessary, a steering committee may be appointed to:

(1) Provide ongoing oversight for the technology project;

(2) Have the authority to approve or reject any changes to the project's scope, schedule, or budget;

(3) Develop any necessary solicitation for the technology project; and

(4) Finalize data necessary for inclusion of the project in the technology portfolio.

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§5A-6-4d. Responsibilities of the Chief Information Officer to implement information technology modernization.

(a) For the purposes of this section, "cloud computing service" means a service that enables on demand self-service network access to a shared pool of configurable computer resources including, but not limited to, data storage, analytics, electronic commerce, streaming services, mobile services, electronic mail, document sharing, and document editing which can be rapidly provided and released with minimal management effort or service provider interaction.

(b) The Chief Information Officer shall develop a comprehensive strategy and implement standards for the procurement, adoption, and utilization of cloud computing services by the state and its agencies. In developing the strategy, the Chief Information Officer may consult with other relevant state or federal agencies and relevant private sector stakeholders.

(c) When implementing the comprehensive strategy described in subsection (b) of this section, the Chief Information Officer may:

(1) Consider activities that accelerate the development of standards addressing interoperability and portability of cloud computing services in collaboration with private sector stakeholders;

(2) Consider activities that advance the development of conformance testing to be performed by private sector stakeholders to support cloud computing standardization;

(3) Consider activities that support the development of appropriate security and architecture frameworks in consultation with private sector stakeholders; and

(4) Identify modern security control best practices to address security and privacy requirements, and to enable the use and adoption of cloud computing services, including practices defined in National Institute of Standards and Technology, Federal Risk and Authorization Management Program, and any equivalent state program adopted in West Virginia.

(d) Beginning on December 1, 2023, and on December 1 of each year after, the Chief Information Officer shall report annually the status of the state’s comprehensive strategy described in subsection (b) of this section to the Joint Committee on Government and Finance and to the Governor. To assist in the creation of the report, all relevant state agencies shall cooperate with the Chief Information Officer and provide any information required by the Chief Information Officer in an accurate and timely manner.

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§5A-6-4e. Digitization of state forms.

(a)(1) All state agencies shall explore existing paper-based forms and applications so that said forms and applications can be made conveniently available to state residents.

(2) The Chief Information Officer may work collaboratively with private sector vendors to establish contracts and services to enable state agencies in modernizing government services to be delivered through a digital media.

(3) The Chief Information Officer shall work with all state agencies to ensure that all paper-based forms and applications are made available to state residents through digital media by no later than July 1, 2025.

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§5A-6-5. Notice of request for proposals by state spending units required to make purchases through the state Purchasing Division.

Any state spending unit that pursues an information technology purchase that does not meet the definition of "technology project" and that is required to submit a request for proposal to the state Purchasing Division prior to purchasing goods or services shall obtain the approval of the Chief Information Officer, in writing, of any proposed purchase of goods or services related to its information technology and telecommunication systems. The proposal shall contain a brief description of the goods and services to be purchased. The state spending unit shall provide the proposal to the Chief Information Officer prior to the time it submits its request for proposal to the state Purchasing Division.

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§5A-6-6. 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 Information Officer, in writing, of any proposed purchase of goods or services related to its information technology or telecommunication systems. The proposal shall contain a detailed description of the goods and services to be purchased. The state spending unit shall provide the proposal to the Chief Information Officer a minimum of 10 days prior to the time it requests bids on the provision of the goods or services.

(b) If the Chief Information Officer evaluates the suitability of the information technology and telecommunication equipment and related services under the provisions of §5A-6-4(a) of this code and determines that the goods or services to be purchased are not suitable, he or she shall, within 10 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 Information 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 15 days following receipt of the notice from the Chief Information Officer.

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§5A-6-7. Biannual report.

The Chief Information Officer shall report biannually to the Legislative Joint Committee on Government and Finance on the activities of his or her office.

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§5A-6-8. Exemptions.

(a) The provisions of this article do not apply to the Legislature, the judiciary, or any state Constitutional Officer designated in §6-7-2 of this code.

(b) Notwithstanding any other provision of this article to the contrary, the provisions of this article do not apply to the West Virginia Board of Education, the West Virginia Department of Education, the county boards of education, the higher educational institutions, or the West Virginia Emergency Management Division of the Department of Homeland Security relating to the technology used with the Statewide Interoperable Radio Network, created by §15-14-1 *et seq*. of this code. However, the West Virginia Board of Education, the West Virginia Department of Education, the county boards of education, and the institutions of higher education shall cooperate and collaborate with the Chief Information Officer to the extent feasible.

(c) The Governor may by executive order exempt from the provisions of this article any entity created and organized to facilitate the public and private use of health care information and the use of electronic medical records throughout the state.

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§5A-6-9. West Virginia Task Force on Artificial Intelligence.

(a) As used in this Section, "Task Force" means the West Virginia Task Force on Artificial Intelligence established by this section.

(b) The West Virginia Task Force on Artificial Intelligence is created and shall be organized within the Office of the Governor.

(c) The Task Force shall be composed of the following members:

(1) One ex officio, non-voting member from the House of Delegates, appointed by the Speaker of the House of Delegates.

(2) One ex officio, non-voting member from the State Senate, appointed by the President of the Senate.

(3) The Chief Information Officer of the Office of Technology or his or her designee.

(4) The State Superintendent of Schools or his or her designee.

(5) The Chancellor of the West Virginia Higher Education Policy Commission or his or her designee.

(6) The Attorney General or his or her designee.

(7) The Secretary of the Department of Administration or his or her designee.

(8) The Secretary of the Department of Homeland Security or his or her designee.

(9) The Secretary of Health or his or her designee.

(10) One member representing the cybersecurity industry with experience relevant to the work of the Task Force, appointed by the Governor.

(11) One member representing the artificial intelligence industry with experience relevant to the work of the Task Force, appointed by the Governor.

(12) One member representing a statewide business association, appointed by the Governor.

(13) One member from the West Virginia Fusion Center.

(14) One member representing either the West Virginia University Health System or the Marshall Health Network, appointed by the Governor.

(d) The Governor shall designate the Chair of the Task Force.

(e) The responsibilities of the Task Force shall include, but not be limited to, the following:

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(1) Recommending a definition of artificial intelligence as it pertains to its use in technology for use in legislation;

(2) Determining the relevant state agency or agencies to develop and oversee artificial intelligence policy and implementation of that policy;

(3) Determining which public interest use cases exist or may exist for artificial intelligence;

(4) Developing best practices for public sector uses of artificial intelligence in the State;

(5) Recommending legislation to protect individual rights, civil liberties, and consumer data as it relates to generative artificial intelligence;

(6) Recommending model policies for schools to address the use of artificial intelligence by students in the classroom;

(7) Determining and making recommendations regarding whether the Task Force should be extended to monitor, analyze, and make findings and recommendations to keep pace with changes in artificial intelligence technology and uses of the technology;

(8) Assessing the use of artificial intelligence in the workforce and its effect on employment levels, types of employment, and the deployment of workers;

(9) Taking an inventory of the current or proposed use of artificial intelligence within state agencies;

(10) Identify economic opportunities related to AI that the state may support or promote;

(11) Other topics related to artificial intelligence that may arise from testimony or reports to the Task Force submitted by its members, invited guests, or the public.

(f) The Office of Technology shall provide administrative and technical support to the Task Force.

(g) All initial appointments to the task force shall be made not later than 90 days after the effective date of this section. Any vacancy shall be filled by the appointing authority, as applicable, within 90 days of such vacancy arising.

(h) The Task Force shall hold its first meeting not later than 120 days after the effective date of this section and shall meet quarterly thereafter with options to either attend in-person or online.

(i) The Task Force shall submit an annual electronic report by July 1, to the House of Delegates, Senate, and the Governor and present the report to the Joint Committee on Government and Finance covering the Task Force's findings and recommendations related to the responsibilities under subsection (e) of this section.

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(j) The Task Force shall terminate on, July 1, 2027.

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