WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

ENROLLED

HOUSE BILL No. __2688_

Mr. Speaker, Mr. Kiss, and Ashley
(By Delegate [By Request of the Executive])

Passed _________________ April 12, 1997

In Effect _________________ July 1, 1997 Passage

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FOR
H. B. 2688

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[By Request of the Executive]

[Passed April 12, 1997; in effect July 1, 1997.]

AN ACT to repeal article eighteen, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend chapter five of said code by adding thereto two new articles, designated articles one-b and one-c; and to amend and reenact section four, article seven, chapter five-a of said code, all relating generally to information technology; setting forth findings and purpose; defining terms; creating the position of chief technology officer within the office of the governor; appointment and qualification of the chief technology officer; powers and duties of the chief technology officer; requiring spending units to notify chief technology officer of proposed purchases of certain goods and services; biannual report; moving the science and technology council to the office of the governor; setting forth legislative purposes; reappointment, terms and compensation of members of the council; powers and duties of council; the responsibilities of the executive director of the council; requiring a comprehensive strategic plan that must be reported; providing for public and private partnerships; changing the powers and duties of the information services and communications division; authority of chief technology
officer to obtain assistance from the division; allowing certain assessments against spending units; and transfer of proceeds of assessments to office of chief technology officer.

Be it enacted by the Legislature of West Virginia:

That article eighteen, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that chapter five of said code be amended by adding thereto two new articles, designated articles one-b and one-c; and that section four, article seven, chapter five-a of said code be amended and reenacted, all to read as follows:

CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.

ARTICLE 1B. CHIEF TECHNOLOGY OFFICER.

§5-1B-1. Findings and purposes.

1 The Legislature finds and declares that information technology is essential to finding practical solutions to the everyday problems of government, and that the management goals and purposes of government are furthered by the development of compatible, linked information systems across government. Therefore, it is the purpose of this article to create, as an integral part of the office of the governor, the office of chief technology officer with the authority to advise and make recommendations to all state spending units on their information systems.

§5-1B-2. Definitions.

1 As used in this article:

(a) “Information systems” means computer-based information equipment and related services designed for the automated transmission, storage, manipulation and retrieval of data by electronic or mechanical means;

(b) “Information technology” means data
processing and telecommunications hardware, software, services, supplies, personnel, maintenance and training, and includes the programs and routines used to employ and control the capabilities of data processing hardware;

(c) “Information equipment” includes central processing units, front-end processing units, minicomputers, microprocessors and related peripheral equipment such as data storage devices, networking equipment, services, routers, document scanners, data entry equipment, terminal controllers, data terminal equipment, computer-based word processing systems other than memory typewriters and equipment and systems for computer networks;

(d) “Related services” include feasibility studies, systems design, software development and time-sharing services whether provided by state employees or others;

(e) “Telecommunications” means any transmission, emission or reception of signs, signals, writings, images or sounds of intelligence of any nature by wire, radio or other electromagnetic or optical systems. The term includes all facilities and equipment performing those functions that are owned, leased or used by the executive agencies of state government; and

(f) “Chief technology officer” means the person holding the position created in section three of this article and vested with authority to assist state spending units in planning and coordinating information systems that serve the effectiveness and efficiency of the individual state spending units, and further the overall management goals and purposes of government.

§5-1B-3. Creation of the office of chief technology officer; appointment and qualifications.

There is hereby created the office of chief technology officer within the office of the governor. The chief technology officer shall be appointed by and shall serve at the will and pleasure of the governor. The chief technology 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.

§5A-1B-4. Powers and duties; professional staff.

(a) With respect to all state spending units the chief technology officer may:

1. Develop an organized approach to information resource management for this state;

2. Provide, with the assistance of the information services and communications division of the department of administration, technical assistance to the administrators of the various state spending units in the design and management of information systems;

3. Evaluate, in conjunction with the information services and communications division of the department of administration, the economic justification, system design and suitability of information equipment and related services, and review and make recommendations on the purchase, lease or acquisition of information equipment and contracts for related services by the state spending units;

4. Develop a mechanism for identifying those instances where systems of paper forms should be replaced by direct use of information equipment and those instances where applicable state or federal standards of accountability demand retention of some paper processes;

5. 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 information;

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

7. Engage in any other activities as directed by the
governor; and

(8) Charge a fee to be assessed by the director of the information services and communications division to the state spending units for evaluations performed and technical assistance provided under the provisions of this section. All fees collected by the chief technology officer shall be deposited in a special account in the state treasury to be known as the "Chief Technology Officer Administration Fund". Expenditures from the fund shall be made by the chief technology 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 redesignated for other purposes by appropriation of the Legislature.

(b) With respect to executive agencies only, the chief technology 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 time lines for addressing the information technology requirements of the various executive agencies of state government;

(3) 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 the design and management of information systems and the purchase, lease or acquisition of information equipment and contracts for related services;

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

(5) Recommend to the governor transfers of equipment and human resources from any executive agency and the most effective and efficient uses of the fiscal resources of executive agencies, to consolidate or centralize information-processing operations.

(c) The chief technology 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.

§5-1B-5. 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 technology officer, in writing, of any proposed purchase of goods or services related to its information and telecommunication systems. 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 technology officer at the same time it submits its request for proposal to the state purchasing division.

§5-1B-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 technology officer, in writing, of any proposed purchase of goods or services related to its information or telecommunication systems. 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 technology 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 technology officer evaluates the suitability of the information and telecommunication equipment and related services under the provisions of subdivision (3), subsection (a), section four of this article and determines that the goods or services to be purchased 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 technology 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 technology officer.

§5-1B-7. Biannual report.

The chief technology officer shall report biannually to the legislative joint committee on government and finance on the activities of his or her office.

§5-1B-8. Exemptions.

The provisions of this article do not apply to the Legislature or the judiciary.

ARTICLE 1C. SCIENCE AND TECHNOLOGY COUNCIL.

§5-1C-1. Legislative purpose.

(a) The Legislature hereby finds that a pressing need exists for a strategy based upon science and technology which promotes a scientifically literate citizenry, enhances government efficiency, encourages the creation of higher-paying jobs and enhances the growth of West Virginia's gross state product. To that end, the state recognizes the need for collaborative research and development efforts among institutions of higher education, industry, government and private organizations which will advance the state's scientific and technological development. The Legislature further finds that focused research and technical assistance efforts related to West Virginia
industry will speed such development, improve technology
transfer, assist companies in becoming growth leaders and
link basic research and technological development to
economic advancement.

(b) The Legislature therefore declares that creation
of a science and technology advisory council will be
advantageous to the state by working to move West
Virginia into a strong competitive position in science and
technology and by improving the efficiency of
government. The council shall provide policy advice to
the Legislature and to the chief technology officer in the
office of the governor on scientific and technology
subjects and issues and provide policy advice to the
council for community and economic development on
science and technology issues that will serve to foster
economic growth. The council shall also develop a state
science and technology strategic plan for submission to
the Legislature and the governor.

§5-1C-2. Science and technology advisory council; members,
appointment and expenses; appointment, duties,
and compensation of director.

(a)(1) The science and technology advisory council
created by chapter one hundred twenty, acts of the
Legislature, regular session, one thousand nine hundred
ninety-six, which is a body corporate and politic,
constituting a public corporation and government
instrumentality, is hereby abolished and a new science and
technology advisory council is created within the office of
the governor.

(2) The council shall consist of eleven members who
have professional, labor or managerial knowledge in
science and technology development and operations and
shall be appointed as follows:

(A) The governor shall appoint five members, with
the advice and consent of the Senate. No more than three
of the five members may belong to the same political
party. Three of the five members shall also be from
different congressional districts of the state, and, shall
provide a broad state geographical distribution of
members of the council;

(B) The governor shall appoint one member, with the advice and consent of the Senate, from a list of two persons recommended by the speaker of the House of Delegates;

(C) The governor shall appoint one member, with the advice and consent of the Senate, from a list of two persons recommended by the president of the Senate;

(D) The governor shall appoint two members, with the advice and consent of the Senate, from a list of four persons recommended by the chancellor of the university of West Virginia system;

(E) The governor shall appoint one member, with the advice and consent of the Senate, from a list of two persons recommended by the chancellor of the state college system of West Virginia; and

(F) The governor shall appoint one member, with the advice and consent of the Senate, from a list of two persons recommended by the council for community and economic development.

(b) The terms of the council members first taking office on or after the effective date of this legislation expire as designated by the governor at the time of their appointment, with three terms expiring at the end of the first year, four terms expiring at the end of the second year, and four terms expiring at the end of the third year. As the original appointments expire, each subsequent appointment is for a full three-year term. Any member whose term has expired shall serve until a successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. In cases of any vacancy in the office of a member, the vacancy shall be filled by the governor in the same manner as the original appointment was made.

(c) Members of the council are not entitled to compensation for services performed as members, but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their
57 duties. A majority of serving members constitutes a
58 quorum for the purpose of conducting business. The
59 governor shall designate a chair, who is not a public
60 official, for a term to run concurrently with the term of
61 office of the member designated as chair. The council
62 shall conduct all meetings in accordance with the open
63 meeting law pursuant to article nine-a, chapter six of this
64 code.

65 (d) The council shall prepare and publish an annual
66 report of its activities and accomplishments and submit it
67 to the governor and to the legislative joint committee on
68 government and finance on or before the fifteenth day of
69 December of each year.

70 (e) Each year, the council shall submit to the
71 governor a list of science and technology projects
72 recommended for funding. The projects shall serve to
73 fulfill the policies established by the science and
74 technology strategic plan. The recommendation shall
75 itemize the funds requested and shall identify any
76 expenditures that will be matched by federal funds, or
77 matched by foundation, corporate or by other funds.

78 (f) The chair of the council also shall serve as the
79 executive director of the council for his or her term of
80 office. He or she shall hold a graduate degree and have
81 professional experience in fields involving science and
82 technology research or development. The expenses of the
83 executive director shall be paid from funds provided by
84 foundation grants, in-kind contributions or other funds
85 obtained pursuant to subsection (b), section four of this
86 article. The executive director shall provide or obtain
87 scientific and technical information to support the
88 administrative work of the council, and to that end may
89 contract with the university system, a nonprofit
90 organization or any state spending unit for research and
91 administrative support.

92 (g) The executive director of the council shall be
93 available to the governor, the chief technology officer
94 within the office of the governor, the speaker of the House
95 of Delegates and the president of the Senate, to analyze
96 and comment upon proposed legislation and rules which
§5-1C-3. Powers and duties of science and technology council.

(a)(1) The council shall consult with the board of trustees of the university system, the board of directors of the college system and with state business leaders in the exercise of its powers and duties, which include, but are not limited to, the following:

(A) Preparation of a comprehensive strategic plan and recommendation of programs in furtherance of the comprehensive strategic plan that will support and foster state science and technology research;

(B) Cooperation with appropriate state spending units to retain and enlarge existing state industries through technology expansion; and

(C) Formulation of plans to establish science and technology research centers at state colleges and universities.

(2) The council may seek public and private research grants and contracts, matching funds and procurement arrangements from the state and federal government, private industry and other agencies, in furtherance of its mission and programs.

(3) The council shall develop an initial comprehensive strategic plan that will support and foster economic growth in science and technology research and development in the state and shall provide the initial plan to the chief technology officer within the office of the governor and the joint committee on government and finance no later than the first day of July, one thousand nine hundred ninety-seven. The initial comprehensive strategic plan shall include, but not be limited to, the following:

(A) A science and technology policy;

(B) The identification of strengths and weaknesses in the basic science resources and research capabilities in the state;
(C) The identification of methods that will coordinate and engender collaborative research efforts between research entities throughout the state, whether public or private;

(D) The designation of areas for potential scientific and technological development, including those related to and having a direct impact upon the economic development of the state;

(E) Recommendations on how to improve and strengthen the partnership between the private sector, institutions of higher education and government;

(F) Recommendations on how to improve the infrastructure for research and research training;

(G) Recommendations on a system to transfer technology to the private sector in the state;

(H) Recommendations on information systems that serve the effectiveness and efficiency of state spending units and higher education and further the overall management goals and purposes of government;

(I) Recommendations on a tracking system for special needs students enrolled in the public schools and state colleges and universities, and the programs and services provided for those students;

(J) Recommendations on legislative changes required to improve the overall science and technology environment in the state; and

(K) Other recommendations on science and technology policy and programs as appropriate.

(4) The strategic plan may be updated and refiled on or before the first day of July of each year. The council shall submit an annual work plan each year beginning the first day of July, one thousand nine hundred ninety-eight to the chief technology officer and the joint committee on government and finance.

(b) In developing its strategic plan, the science and technology council shall utilize its resources as well as the
technical support available to it through the university of West Virginia system, the state college system of West Virginia, the West Virginia development office, the West Virginia experimental program to stimulate competitive research (EPSCoR), federal and state agencies, and other appropriate organizations that have an interest in fostering science and technology research and development in West Virginia.

(c) The council shall undertake to keep abreast of state and national scientific and technological developments and work to establish, foster, and successfully conclude university, college and other scientific research projects or clusters.

(d) To reduce and avoid duplication of research work and expenditures, the council shall, as a part of its comprehensive strategic plan, formulate methods that will coordinate and generate collaborative efforts between research entities throughout West Virginia, whether public or private, and foster synergistic relationships among them. Cooperating agencies may contract with the council, as provided in section four of this article, so as to participate in science and technology projects, jointly or through the programs of the council with other participating institutions, government units and private business firms.

§5-1C-4. Public-private partnerships; funding.

(a) In furtherance of its mission, the science and technology council is authorized to enter into contracts or joint venture agreements with federal and state agencies; with nonprofit corporations organized pursuant to the corporate laws of this state or other jurisdictions that are qualified under section 501(c)(3) of the Internal Revenue Code; and with other organizations that conduct research, make grants, improve educational programs and work for the scientific, educational or economic development of this state. The chief technology officer within the office of the governor and the council, by a majority vote, shall approve all contracts and joint venture agreements. The council may also enter into contractual agreements for consideration even though the entities are funded from
Members of the council may sit on the boards of directors of any contracting private nonprofit corporation, foundation or firm: Provided, That members of the council are not exempt from any of the provisions of chapter six-b of this code.

(b) The council may receive and accept gifts or grants from private foundations, corporations, individuals, devises and bequests or from other lawful sources. The funds shall be paid into a special account in the state treasury for the use and benefit of the science and technology advisory council.

§5-1C-5. Exemptions.

The provisions of this article do not apply to the Legislature or the judiciary.

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS DIVISION.

§5A-7-4. Powers and duties of division generally; professional staff; telephone service.

(a) The division is responsible for providing technical services and assistance to the various state spending units with respect to developing and improving data processing and telecommunications functions. The division may provide training and direct data processing services to the various state agencies. The division shall, upon request of the chief technology officer within the office of the governor, provide technical assistance in evaluating the economic justification, system design and suitability of equipment and systems used in state government. The director shall report to the secretary.

(b) The director is responsible for the development of personnel to carry out the technical work of the division and may approve reimbursement of costs incurred by employees to obtain education and training.

(c) The director may assess each state spending unit for the cost of any evaluation of the economic justification, system design and suitability of equipment
and systems used by the state spending unit or any other technical assistance that is provided or performed by the chief technology officer and the division under the provisions of section four, article one-b of this chapter.

(d) The director shall transfer any moneys received as a result of the assessments that he or she makes under subsection(c) of this section to the office of chief technology officer. The director shall report quarterly to the joint committee on government and finance on all assessments made pursuant to subsection (c) of this section.

(e) The director shall maintain an accounting system for all telephone service to the state.

(f) The provisions of this article do not apply to the Legislature or the judiciary.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 15th day of May, 1997.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/11/47
Time 3:46 pm