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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

Committee Substitute for Committee Substitute for
SENATE BILL NO. *128*

(By Senator *Tomblin, Mr. President, and Speaker* **)**
By Request of the Executive

PASSED *April 14, 2001*

In Effect *July 1, 2001* **Passage** *→*

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Senate Bill No. 128

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed April 14, 2001; to take effect July 1, 2001.]

AN ACT to amend chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article one-d, relating to creating the office of fiscal risk analysis and management within the office of the governor; appointment and qualifications of the chief risk officer; powers and duties; requiring spending units to notify the chief risk officer of proposed purchases of certain goods and services; annual report; requiring a comprehensive strategic plan; authority of chief risk officer to obtain assistance from executive branch agencies; authorizing certain assessments against spending

units; authorizing transfer of proceeds of assessments to the office of fiscal risk analysis and management; and termination date.

Be it enacted by the Legislature of West Virginia:

That chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article one-d, to read as follows:

ARTICLE 1D. GOVERNOR'S OFFICE OF FISCAL RISK ANALYSIS AND MANAGEMENT.

§5-1D-1. Findings and purposes.

1 The Legislature finds and declares that fiscal risk
2 analysis and management is essential to finding practical
3 solutions to the everyday problems of government and that
4 the management goals and purposes of government would
5 be furthered by the development of a consistent set of
6 fiscal risk analysis and management principles. Therefore,
7 it is the purpose of this article to create, as an integral part
8 of the office of the governor, the office of fiscal risk
9 analysis and management, with the authority to advise
10 and make recommendations to all state spending units on
11 fiscal risk analysis and management functions and deci-
12 sions with potential long term fiscal impact of an amount
13 of at least one million dollars: *Provided*, That the author-
14 ity shall advise and make recommendations to the public
15 employees insurance agency, the consolidated public
16 retirement board, workers' compensation and the board of
17 risk and insurance management on fiscal risk analysis and
18 management functions and decisions with potential long
19 term fiscal impact of any increases of program costs in
20 excess of five percent.

§5-1D-2. Definitions.

1 As used in this article:

2 (a) "Chief risk officer" means the person appointed to
3 the position created in section three of this article and who

4 is vested with authority to assist state spending units in
5 planning and coordinating fiscal risk analysis and man-
6 agement activities that serve the effectiveness and effi-
7 ciency of the individual state spending units, state execu-
8 tive agencies and further the overall management goals
9 and purposes of government.

10 (b) "Fiscal risk analysis and management" means issues
11 that arise out of the day-to-day operations of state govern-
12 ment that put at fiscal risk the people, property or other
13 assets of the state, the overall operation of state govern-
14 ment and its ability to carry and acceptance of fiscal risks
15 on decisions with potential fiscal impact of an amount of
16 at least one million dollars: *Provided*, That the authority
17 shall advise and make recommendations to the public
18 employees insurance agency, the consolidated public
19 retirement board, workers' compensation and the board of
20 risk and insurance management on fiscal risk analysis and
21 management functions and decisions with potential long
22 term fiscal impact of any increases of program costs in
23 excess of five percent.

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

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

1 (a) There is hereby created the office of fiscal risk
2 analysis and management within the office of the gover-
3 nor. The office shall be administered by the chief risk
4 officer who shall be appointed by the governor with the
5 advice and consent of the Senate and shall serve at the will
6 and pleasure of the governor. The chief risk officer shall
7 have knowledge in the area of self-insured risk pools,
8 advanced training in the area of fiscal risk management
9 and an understanding of the special demands upon
10 government with respect to budgetary constraints, the

11 protection of public funds, and federal and state standards
12 of accountability.

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

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

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

3 (1) Shall develop an organized approach to fiscal risk
4 analysis and management;

5 (2) Shall provide, with the assistance of certain execu-
6 tive branch agencies, technical assistance to the adminis-
7 trators of the various state spending units in the design
8 and implementation of fiscal risk analysis and manage-
9 ment procedures and systems;

10 (3) Shall evaluate, with the assistance of certain execu-
11 tive branch agencies, the economic justification and
12 suitability of acceptable fiscal risk levels, the management
13 thereof, and related services and review and make recom-
14 mendations on the need for acquisition of fiscal risk
15 analysis, management consulting and actuarial services by
16 the state spending units;

17 (4) Shall develop a mechanism for identifying those
18 instances in which the sound application of fiscal risk
19 analysis and management principles can assist agencies in
20 reducing their exposure to or frequency of loss;

21 (5) Shall create new tools to assist agencies of govern-
22 ment in fulfilling their duties, convene conferences and
23 develop incentive packages to encourage the use of sound
24 fiscal risk management principles;

25 (6) Shall engage in any other activities reasonably
26 related to the findings and purposes set forth in section
27 one of this article, as directed by the governor; and

28 (7) Shall charge a fee to be assessed by the chief risk
29 officer to the state spending units for evaluations per-
30 formed and technical assistance provided under the
31 provisions under the provisions of this article.

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

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

3 (1) Shall develop a unified and integrated structure of
4 fiscal risk management for all state executive agencies
5 that must be completed by the first day of July, two
6 thousand two;

7 (2) May establish, based on need and opportunity,
8 priorities and time lines for addressing the fiscal risk
9 analysis requirements of the various executive agencies of
10 state government;

11 (3) Shall exercise such authority inherent to the chief
12 executive of the state as the governor may, by executive
13 order, delegate, to overrule and supersede decisions made
14 by the administrators of the various executive agencies of
15 government with respect to fiscal risk analysis and man-
16 agement decisions and the acquisition of fiscal risk
17 management services, including, but not limited to,
18 management consulting contracts and contracts for
19 actuarial and related services: *Provided*, That the provi-
20 sions of this subdivision do not exempt the various execu-
21 tive agencies from complying with the provision of this
22 code regarding audits and actuarial studies.

23 (4) Shall consult and work closely with staff of other
24 executive agencies for advice and assistance in the formu-
25 lation and implementation of administrative and opera-
26 tional plans and policies.

§5-1D-6. Fees.

1 All fees collected by the office of fiscal risk analysis and
2 management shall be deposited in a special account in the
3 state treasury to be known as the "Office of Fiscal Risk
4 Analysis and Management Administration Fund". Expen-
5 ditures from the fund shall be made by the chief risk
6 officer for the purposes set forth in this article and are not
7 authorized from collections, but are to be made only in
8 accordance with appropriation by the Legislature and in
9 accordance with the provisions of article three, chapter
10 twelve of this code and upon the fulfillment of the provi-
11 sions set forth in article two, chapter five-a of this code.
12 Amounts collected which are found from time to time to
13 exceed the funds needed for purposes set forth in this
14 article may be transferred to other accounts or funds and
15 used for other purposes by appropriation of the Legisla-
16 ture.

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

1 Any state spending unit that is required to submit a
2 request for proposal to the state purchasing division prior
3 to purchasing goods or services shall notify the chief risk
4 officer, in writing, of any proposed purchases of goods or
5 services related to fiscal risk analysis and management,
6 including, but not limited to, management consulting,
7 actuarial or other contracts that involve the management
8 or fiscal risk evaluation of the spending unit with potential
9 fiscal impact of an amount of at least one million dollars.
10 The notice shall contain a brief description of the goods
11 and services to be purchased. The state spending unit shall
12 provide the notice to the chief risk officer ten days prior to
13 its submission of its request for proposal to the state
14 purchasing division.

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

1 (a) Any state spending unit that is not required to submit
2 a request for proposal to the state purchasing division
3 prior to purchasing goods or services shall notify the chief
4 risk officer, in writing, of any proposed purchase of goods
5 or services related to fiscal risk analysis and management,
6 including, but not limited to, management consulting,
7 actuarial or other contracts that involved the management
8 or fiscal risk evaluation of the spending unit with potential
9 fiscal impact of an amount of at least one million dollars.
10 The notice shall contain a detailed description of the goods
11 and services to be purchased. The state spending unit shall
12 provide the notice to the chief risk officer a minimum of
13 ten days prior to the time it requests bids on the provision
14 of the goods or services.

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

§5-1D-9. Annual report.

1 The chief risk officer shall report annually to the
2 legislative joint committee on government and finance on
3 the activities of his or her office.

§5-1D-10. Exemptions.

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

§5-1D-11. Termination of office.

1 The office of fiscal risk analysis and management shall
2 continue to exist until the first day of July, two thousand
3 three, pursuant to the provisions of article ten, chapter
4 four of this code unless sooner terminated, continued or
5 reestablished pursuant to the provisions of such article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2001.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *30th*
Day of *April*, 2001.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/24/01

Time 5:30 pm