ENROLLED
Committee Substitute for
SENATE BILL NO. 767

(By Senator Bowman, et al.)

PASSED March 11, 2006

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 767

(SENATORS BOWMAN, HUNTER AND MINARD, original sponsors)

[Passed March 11, 2006; in effect from passage.]

AN ACT to amend and reenact §21A-2-6 of the Code of West Virginia, 1931, as amended, relating to the powers and duties of the Commissioner of the Bureau of Employment Programs; and authorizing the commissioner to promulgate rules authorizing state agencies to revoke the business license of an employing unit in default on unemployment compensation payments.

Be it enacted by the Legislature of West Virginia:

That §21A-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. THE COMMISSIONER OF THE BUREAU OF EMPLOYMENT PROGRAMS.

The commissioner is the executive and administrative head of the bureau and has the power and duty to:

1. Exercise general supervision for the governance of the bureau and propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the requirements of this chapter;

2. Prescribe uniform rules pertaining to investigations, departmental hearings and propose rules for promulgation;

3. Supervise fiscal affairs and responsibilities of the bureau;

4. Prescribe the qualifications of, appoint, remove and fix the compensation of the officers and employees of the bureau, subject to the provisions of section ten, article four of this chapter, relating to the board of review;

5. Organize and administer the bureau so as to comply with the requirements of this chapter and to satisfy any conditions established in applicable federal law or regulation;

6. Make reports in the form and containing information required by the United States Department of Labor and comply with any requirements that the United States Department of Labor finds necessary to assure the correctness and verification of the reports;

7. Make available to any agency of the United States charged with the administration of public works or assistance through public employment, upon its request, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation and a statement of the recipient's rights to further compensation under this chapter;

8. Keep an accurate and complete record of all bureau proceedings, record and file all bonds and contracts and
(9) Sign and execute in the name of the state, by the “Bureau of Employment Programs”, any contract or agreement with the federal government, its agencies, other states, their subdivisions or private persons;

(10) Prescribe a salary scale to govern compensation of appointees and employees of the bureau;

(11) Make the original determination of right in claims for benefits;

(12) Make recommendations and an annual report to the Governor concerning the condition, operation and functioning of the bureau;

(13) Invoke any legal or special remedy for the enforcement of orders or the provisions of this chapter;

(14) Exercise any other power necessary to standardize administration, expedite bureau business, assure the establishment of fair rules and promote the efficiency of the service;

(15) Keep an accurate and complete record and prepare a monthly report of the number of persons employed and unemployed in the state. The report shall be made available upon request to members of the public and press;

(16) Provide at bureau expense a program of continuing professional, technical and specialized instruction for the personnel of the bureau;

(17) (A) Propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, under which agencies of this state shall revoke or not grant, issue or renew any contract, license, permit, certificate or other authority to conduct a trade, profession or business to or with any employing unit whose account is in default with the commissioner with
regard to the administration of this chapter. The term “agency” includes any unit of state government such as officers, agencies, divisions, departments, boards, commissions, authorities or public corporations. An employing unit is not in default if it has entered into a repayment agreement with the Unemployment Compensation Division of the bureau and remains in compliance with its obligations under the repayment agreement.

(B) The rules shall provide that, before revoking, granting, issuing or renewing any contract, license, permit, certificate or other authority to conduct a trade, profession or business to or with any employing unit, the designated agencies shall review a list or lists provided by the bureau of employers that are in default. If the employing unit's name is not on the list, the agency, unless it has actual knowledge that the employing unit is in default with the bureau, may grant, issue or renew the contract, license, permit, certificate or other authority to conduct a trade, profession or business. The list may be provided to the agency in the form of a computerized database or databases that the agency can access. Any objections to the revocation or refusal to issue or renew shall be reviewed under the appropriate provisions of this chapter.

(C) The rules may be promulgated or implemented in phases so that specific agencies or specific types of contracts, licenses, permits, certificates or other authority to conduct trades, professions or businesses will be subject to the rules beginning on different dates. The presumptions of ownership or control contained in the Department of Environmental Protection's surface mining reclamation regulations promulgated under the provisions of article three, chapter twenty-two of this code are not applicable or controlling in determining the identity of employing units who are in default for the purposes of this subdivision. The rules shall also provide a procedure allowing any agency or interested person, after being covered under the rules for at least one year, to petition the Bureau of
Employment Programs to be exempt from the provisions of the rules;

(18) Deposit to the credit of the appropriate special revenue account or fund, notwithstanding any other provision of this code and to the extent allowed by federal law, all amounts of delinquent payments or overpayments, interest and penalties thereon and attorneys' fees and costs collected under the provisions of this chapter. The amounts collected shall not be treated by the Auditor or Treasurer as part of the general revenue of the state; and

(19) Enter into interagency agreements to assist in exchanging information and fulfilling the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 31st Day of March, 2006.

Governor