



WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Personnel TITLE-SERIES: 143-07
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 143-07 Interdepartmental Transfer of Permanent State Employees

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code 29-6-10

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

143CSR7 implements the provisions set forth in W. Va. Code § 5F-2-7 regarding the interdepartmental transfer of permanent state employees due to shortage of work or funds, abolition of position, or material changes in duties or organization.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/30/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/30/2026

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Posted notice on West Virginia Division of Personnel website.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

143CSR7 implements the provisions set forth in W. Va. Code § 5F-2-7 regarding the interdepartmental transfer of permanent state employees due to shortage of work or funds, abolition of position, or material changes in duties or organization.

The existing Rule is being amended to clarify certain sections of the Rule, to improve internal consistency of the Rule, and to address statutory revisions with the passing of HB5441 amending 29-6-1 et seq.

The civil service reform is designed to facilitate a more streamlined, efficient, and accountable state government in which state employees are held to high standards, merit can be meaningfully rewarded, and the state is better positioned to compete with the private sector for talent. Effective July 1, 2025, and July 1, 2026, most newly hired employees, as well as current employees who voluntarily transfer or accept new positions, enter employment in positions in the classified-exempt service that are statutorily excluded from the DOP merit system (formerly Civil Service).

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

143CSR7 implements the provisions set forth in W. Va. Code § 5F-2-7 regarding the interdepartmental transfer of permanent state employees due to shortage of work or funds, abolition of position, or material changes in duties or organization.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

It is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on State operations which, in turn, benefit state residents through cost saving and provision of services.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Though it is anticipated these amendments and civil service reform will result in efficiencies that will have a positive impact on the cost and revenues of State government, the exact fiscal impact is incalculable at this time.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Joe F Thomas -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 143
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF PERSONNEL

SERIES 7
INTERDEPARTMENTAL TRANSFER OF PERMANENT STATE EMPLOYEES

~~Section 1~~ §143-7-1. General.

1.1. Scope: ~~--~~ This rule implements the provisions set forth in ~~West Virginia~~ W. Va. Code § 5F-2-7 regarding the interdepartmental transfer of permanent state employees.

1.2. Authority: ~~--~~ This rule is issued under authority of ~~West Virginia~~ W. Va. Code § 29-6-10 and § 5F-2-7.

1.3. Filing Date: ~~--~~ May 4, 2007.

1.4. Effective Date: ~~--~~ May 7, 2007.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, ~~2029~~ 2032.

~~Section 2~~ §143-7-2. Definitions.

Terms used in this rule which are not included in this section have the meaning given in the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, and W. Va. Code § 29-6-2.

2.1. ~~Involuntary Transfer: Any~~ "Involuntary Transfer" means any transfer under the provisions of this rule which is not agreed to, in writing, by the employee being transferred.

2.2. ~~Permanent State Employee: Any~~ "Permanent State Employee" means any person hired for permanent employment, either full or part-time, by any department, agency, commission or board of the state created by an act of the Legislature, except those persons employed by any higher education governing board or institution, uniformed members of the department of public safety, any employees of any constitutional officer and any employees of the Legislature.

2.3. ~~Voluntary Transfer: Any~~ "Voluntary Transfer" means any transfer under the provisions of this rule which is agreed to, in writing, by the employee being transferred.

~~Section 3~~ §143-7-3. Authorization of Transfers.

When it becomes necessary by reason of shortage of work or funds, abolition of position, or material changes in duties or organization, a department secretary, in lieu of or preliminary to a layoff, may enter into an agreement with another department secretary to transfer a permanent state employee from a position that is to be consolidated or eliminated to a funded vacant position in another department, in accordance with the provisions of this rule. As the intent of this rule is, whenever possible, to provide continuous employment for permanent state employees whose positions are to be consolidated or

eliminated instead of laying off those employees, the Director of Personnel shall interpret this rule in a manner consistent with existing law and rule regarding layoff.

3.1. Prior to an interdepartmental transfer due to consolidation or elimination of a position, the department secretary shall submit to the ~~State Personnel Board~~ Director of Personnel for approval a description of the organizational unit or units to which a consolidation or elimination will apply and from which the transfer will be made. The organizational unit may be an entire agency, division, bureau, or other organizational unit.

3.2. Prior to the interdepartmental transfer of any employee, the department secretary shall file with the Director a proposed plan which shall include:

- ~~a.~~ 3.2.1. a statement of the circumstances requiring the consolidation or elimination;
- ~~b.~~ 3.2.2. the approved organizational unit(s) in which the proposed consolidation or elimination will take place;
- ~~c.~~ 3.2.3. a list of each job class affected by the consolidation or elimination;
- ~~d.~~ 3.2.4. a list of all employees, in order of retention, in each job class in the approved organizational unit affected by the consolidation or elimination;
- ~~e.~~ 3.2.5. the number of positions, by job class, to be eliminated or consolidated; and,
- ~~f.~~ 3.2.6. a copy of the proposed agreement to be entered into by the department secretaries between which the transfer is to be made, including the number of positions, by job class, into which employees are proposed to be transferred.

3.3. It is the duty of the Director of Personnel to verify the details on which the plan is based and to notify the department secretaries in writing of the approval of the plan.

Section 4 §143-7-4. Notice.

4.1. After the ~~Board~~ Director of Personnel has approved the organizational unit to which the consolidation or elimination will apply and the Director has notified the department secretaries of the approval of the proposed interdepartmental transfer plan, the secretary of the department from which the employee will transfer shall notify each affected employee of the consolidation or elimination and proposed transfer in writing at least fifteen (15) calendar days prior to the proposed transfer.

4.2. The approved proposed interdepartmental transfer plan to be followed by the department secretaries shall be provided by the department secretaries in writing, to any employee affected by the consolidation or elimination.

Section 5 §143-7-5. Order of Transfer.

5.1. After the department secretary has determined the number of positions by job class to be consolidated or eliminated, and the ~~Board~~ Director of Personnel has approved the organizational unit to which the consolidation or elimination will apply, and the Director has approved the proposed plan for

the consolidation and elimination of positions and the transfer of employees, the order of transfer shall be applied in the following manner.

~~a.~~ 5.1.1. The department secretary shall first transfer affected employees voluntarily agreeing in writing to be transferred. In all cases employees in the affected job class shall be offered the opportunity to voluntarily transfer in order of most tenure as a permanent employee of a state agency or in the classified service.

~~b.~~ 5.1.2. If sufficient permanent employees in the affected job class in the approved organizational unit do not volunteer to be transferred, the department secretary may order an involuntary transfer. Selection of permanent employees for an involuntary transfer shall be from the affected job class in the approved organizational unit and in order of tenure as a permanent employee of a state agency or in the classified service consistent with statutory provisions regarding the receipt or withdrawal of a benefit. In all cases, employees will be retained in State employment, including employment in another department resulting from a voluntary or involuntary transfer, based on most tenure as a permanent employee of a state agency or in the classified service. An involuntary transfer may be rejected in writing by an employee if the involuntary transfer would require the employee to travel thirty miles or more, one way, than the distance, by customary route, the employee currently travels to his or her current job site.

5.2. Tenure credit does not accrue for periods during which terminal annual leave is paid or for periods during which an employee is not paid a wage or salary, except for military leave, educational leave, or periods during which the employee is paid temporary total disability benefits under the provisions of ~~WV~~ W. Va. Code § 23-4-1 for a personal injury received in the course of and resulting from covered employment as a permanent employee of a state agency or in the classified service, or unless otherwise provided by State or Federal statute.

5.3. In the event of a tie based on tenure, the department secretary or his or her representative and those employees who are tied shall agree on a means of breaking the tie and shall notify the Director in writing of the agreement and the results.

~~Section 6~~ §143-7-6. Transfer Rights.

6.1. Transfers of classified employees under the provisions of ~~West Virginia~~ W. Va. Code § 5F-2-7 shall comply with the provisions of the Administrative Rule of the West Virginia Division of Personnel, 143CSR1, except that any employee transferred under the provisions of ~~West Virginia~~ W. Va. Code § 5F-2-7 shall receive the same level of benefits and rate of compensation or higher, and shall retain the same level of tenure.

6.2. A classified employee who is transferred under the provisions of ~~West Virginia~~ W. Va. Code § 5F-2-7 shall retain his or her classified status.

6.3. A ~~classified-exempt~~ classified-exempt employee who is transferred under the provisions of ~~West Virginia~~ W. Va. Code § 5F-2-7 shall retain his or her ~~classified-exempt~~ classified-exempt status ~~provided that the transfer is made in accordance with the law.~~ A ~~classified-exempt~~ classified-exempt employee who is transferred to a position in the classified service must be appointed from a register, reinstated to the classified service, or added to the classified service in accordance with the law.

~~Section 7~~ §143-7-7. Reporting.

7.1. The department secretary shall report the names of all employees who are to be transferred out of his or her department to the Director of Personnel, in writing, no later than the date the department secretary notifies the employee of the transfer.

7.2. Upon completion of interdepartmental transfers made under the provisions of ~~West Virginia W. Va.~~ Code § 5F-2-7, the department secretary transferring employees out of his or her department shall report the details of such transfers to the Director of Personnel, including but not limited to, the names of employees voluntarily and involuntarily transferred, as well as all furniture and equipment transfers.

~~Section 8~~ §143-7-8. Appeals.

Employees not exempted from the grievance procedure may ~~shall~~ initiate appeals from involuntary interdepartmental transfers at level three of the ~~Education and State~~ Public Employees Grievance Procedure as provided in ~~West Virginia W. Va. Code § 29-6A-1~~ 6C-2-1 et seq.

~~Section 9~~ §143-7-9. Post-Transfer Layoff.

After all transfers have been completed, the secretary of the department consolidating or eliminating positions shall initiate a layoff in accordance with existing rule and law for all remaining positions which are identified to be consolidated or eliminated in the plan approved under the provisions of sub-section 3.3 of this rule.