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HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 518

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE BY CODIFYING CERTAIN SECTIONS OF THE FISCAL YEAR 2002 BUDGET ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend 29 Del. C. § 5916 by redesignating existing subsections (b) and (c) as subsection (e) and (f)
2 and by adding new subsections (b), (c) and (d) to read as follows:

3 “(b) No agency shall engage a consultant or authorize expenditures of any General or Special Funds for the
4 purpose of studying personnel policies and/or the wage and salary classification of employees without the written
5 authorization of the Personnel Director, the Budget Director and the concurrence of the Controller General.

6 (c) No State employee, whose salary is designated in the annual appropriations act, shall receive compensation
7 whether in wages, salary, wages-in-kind, food allotment bonuses, or overtime from agencies of this State in excess of said
8 salary regardless of the source of funds involved, except as provided in 29 De. C. § 5105 (c), § 5112 (b) and § 5123. In
9 the event that an employee shall receive excess compensation, the amount of the appropriation from the General Fund
10 shall be reduced by the amount of such excessive compensation and the Attorney General shall take such steps as
11 necessary to recover from such employee any such excessive amount as has actually been paid. In the event the “All
12 Other” part of the salary is made up entirely of federal funds, and such federal funds are terminated or reduced, that state
13 appropriation is hereby increased to provide the “Total Salary” indicated.

14 (d) A state employee may perform additional duties for a state agency other than his/her principal employing
15 agency, with the consent of his/her principal employing agency, and may be paid additional compensation, provided such
16 additional duties are not a part of his/her regular duties for the principal employing agency and not rendered during the
17 time paid for by the principal employing agency. All wage payments resulting from the performance of such additional

18 duties, including FLSA overtime, shall be the responsibility of the secondary employing agency unless otherwise
19 authorized by the Budget Director and the State Personnel Director.”

20 Section 2. Amend 29 Del. C. §8810(i) , by adding the following to the end of said subsection:

21 “If appropriate, the Director of Support Services may award a contract in accordance with 29 Del. C. c. 69. The
22 acquisition of copiers in state buildings which are managed by the Department of Administrative Services, Facilities
23 Management shall have the approval of the Secretary of Administrative Services.”

24 Section 3. Amend 29 Del. C. §6102 (k) by designating the existing subsection as (k)(1) and adding thereto a new
25 subsection (k)(2), to read as follows:

26 “(k)(2) The Indirect Cost Recovery Program is authorized to recover indirect costs from non-federal special
27 funded regulatory and service agencies. Costs that are allocated to a state agency under this authority shall be billed to the
28 state agency, and the cost is payable to the Office of the Budget. The source of payment for the billed indirect cost shall
29 be any revenue source except the General Fund. If the billed agency is authorized to bill and recover direct expenses, the
30 agency shall recover indirect costs in the same manner.”

31 Section 4. Amend 29 Del. C. §5112 (b) by adding new subsections (5) and (6) to read as follows:

32 “(5) State Police recruits during the period of their training.

33 (6) Circumstances where approval has been granted by the Budge director and the Controller General”

34 Section 5. Amend 29 Del. C. c. 51 by adding a new section to read as follows:

35 “§ 5123 Employee Housing

36 An agency may provide housing for an employee without reduction in salary provided such housing is on the site
37 of the principal location of employment and further provided that the head of the department or agency has determined
38 that such location of the employee is necessary to the operation of the agency and that the employee has no other
39 employment. No agency shall provide an employee with a housing allowance or compensation for housing.”

40 Section 6. Amend 29 Del. C. §5903 (16) by adding the sentence “The Staff Attorney and law clerk positions in
41 the Court of Common Pleas and the Justices of the Peace Courts shall be exempt positions and shall be excluded from
42 classified service.” after the sentence ending with “Court Administrator.”

43 Section 7. Amend 29 Del. C. §5911 by designating existing subsections (4) and (5) as new subsections (6) and
44 (7) and by adding new subsections (4) and (5) to read as follows:

45 “(4) Designate an employee to act as the Staff Development Officer for the Office of State Personnel, funded
46 through Appropriated Special Funds. This individual will support statewide training programs for state managers,
47 supervisors and employees. Statewide training programs will be supported with funds generated from the assessment of
48 charges for courses on agencies participating in certain classes held by the Office of State Personnel. The Office of State
49 Personnel may set charges for courses to sustain or create training programs with the funds placed in an Appropriated
50 Special Fund account established by the Budget Director.

51 (5) Administer and manage a statewide human resource information system, and upon implementation, serve as
52 the administrator of all data and processes supported by the system throughout the State, including all government
53 agencies, school districts, Delaware State University and Delaware Technical and Community College.”, and by
54 redesignating each succeeding subsection accordingly.

55 Section 8. Amend 29 Del. C §2906, by adding a new subsection to read as follows:

56 “(h) The Auditor of Accounts shall conduct audits of the state funded portion of the finances of the University of
57 Delaware as authorized by 14 Del. C. §5109. The contractor conducting the audit shall be selected jointly by the
58 University of Delaware and the Auditor of Accounts.”

59 Section 9. Amend 29 Del. C. §2706, by adding a new subsection to read as follows:

60 “(c) The State Treasurer shall establish and maintain a special fund appropriation to be credited with stale check
61 write-off amounts. Use of this account is limited to the processing of stale-check reissues by the State Treasurer. On June
62 30 of each fiscal year, the unexpended stale check write-off balance in excess of \$100,000 shall be credited to the General
63 Fund. If during a fiscal year, there is an insufficient amount to process reissues, a revenue refund shall be made from the
64 General Fund to the special appropriation.”

65 Section 10. Amend 29 Del C. c.27, by adding a new section to read as follows:

66 “§ 2719 Expense of Issuing Bonds

67 The annual operating budget shall authorize an appropriation for the Expense of Issuing Bonds in State
68 Treasurer, Debt Management for payment of expenses relating to the issuance of State long-term debt. Disbursement
69 from the Expense of Issuing Bonds appropriation shall not be made without the prior approval of the State Treasurer and
70 the Secretary of Finance.”

71 Section 11. Amend 29 Del. C. §2512 by designating the existing section as subsection (a) and by adding new
72 subsections (b), (c) and (d) to read as follows:

73 “(b). The Attorney General is authorized to collect and use revenues from the fees realized by 29 Del. C. §2512
74 (a) and 6 Del. C. c 73 (Delaware Securities Act) to support the Department of Justice’s Securities Division. Balances at
75 the end of any fiscal year in excess of \$100,000 collected from these fees shall be deposited into the General Fund.

76 (c) The Department of Justice is authorized to publish and sell the opinions of the Attorney General; to deposit
77 the proceeds of any sales in a special fund to be established and designated “Attorney General Opinion Fund”; and to
78 expend all monies deposited in such fund for any expense connected with the publishing or sale of opinions of the
79 Attorney General. Copies of the published opinions will be distributed at no cost to the General Assembly, the Governor
80 and state agencies. If at the end of the fiscal year, the amount deposited in this fund exceeds \$15,000, the amount
81 exceeding \$15,000 shall be deposited into the General Fund.

82 (d) Notwithstanding any other laws to the contrary, including, but not limited to, 29 Del. C. Part VI, the
83 Attorney General is authorized to enter into a contract for the production, distribution and marketing of educational videos
84 on such terms and conditions as the Attorney General deems appropriate. All revenues received by the Attorney General
85 from such contract shall be deposited in a Non-Appropriated Special Fund. Revenues received and deposited into said
86 account shall be used for the purpose of reproducing, marketing and distributing copies of these videos.”

87 Section 12. Amend 29 Del. C. §8705 by designating said section as subsection (a) and by adding a new
88 subsection (b) to read as follows:

89 “(b) The Division of Historical and Cultural Affairs is hereby authorized to retain revenue received from land
90 and building rentals including but not limited to Buena Vista, Belmont Hall, Dayett Mills, The Lindens, McCrone House,
91 John Dickenson Plantation and the Meeting House Galleries to support these operations. The Division is further
92 authorized to use revenues derived from future property and building acquisitions for operational support of those
93 facilities and properties as they are acquired. Spending authority shall be subject to the requirements of the annual
94 appropriation act.”

95 Section 13. Amend 29 Del. C §8305 by adding a new subsection to read as follows:

96 “(8) The Division is authorized to require payment of fees for issuance of certificates or other documents
97 reflecting the status of taxes, if any owed, by the tax payer requesting such certificate. In addition, the division is
98 authorized to specify payment of fees for collection of debts owed to claimant agencies. Payment of these fees shall be
99 deemed to reduce the contractual services expenditures of the division and shall be recorded as expenditure reducing
100 items.

Section 14. Amend 29 Del. C. §8810(b)(3) b, by adding a sentence to the end of said subsection:

“Funds generated by Delaware Surplus Services and deemed to be surplus by the Secretary of Administrative Services shall be transferred to Facilities Management by the Office of the Budget for maintenance and restoration of state buildings and grounds maintained by the Department of Administrative Services.”

Section 15. Amend 29 Del. C. §7904, by adding a new subsection as follows:

“(g) The Division is authorized to operate the following programs for which a fee for service is charged to cover the cost of the program: Child Health, Vanity Birth Certificate, Public Water, Medicaid Enhancements, Infant Mortality, Medicaid Aids Waiver, Children with Special Needs, Family Planning, Newborn, Indirect Costs, Vaccines, Food Inspection, Medicaid Contractors/Lab Testing and Analysis, Tuberculosis (TB), Sexually Transmitted Diseases (STD), Child Development Watch, Preschool Diagnostic and Development Nursery (PDDN), Home Visits, Food Permit, Water Operator Certification, Long Term Care Prospective Payment, Long Term Care IV Therapy and Health Statistics. Notwithstanding the provisions of 29 Del C. Section 6102, the Division shall be allowed to collect and expend fees from the aforementioned accounts except that the Children with Special Needs and Child Health programs shall continue to deposit 30 percent of program collections to the General Fund.”

Section 16. Amend 29 Del. C. §6435 by designating said section as subsection (a) and by adding new subsections (b), (c), (d), (e), (f) and (g) to read as follows:

“(b) The Division of Substance Abuse and Mental Health is able to bill for additional Medicaid revenue due to a waiver of the Institution for Mental Diseases exclusion, as part of the Medicaid Managed Care waiver. This additional revenue shall be deposited to the General Fund, and the Division shall make every effort to ensure that these bills are submitted to the appropriate entities in an expeditious manner.

(c) The Division of Social Services is permitted to use Title XIX Federal Programs (Medicaid) funds when necessary to reimburse the federal government for its portion of overpayments not collected within sixty days of identification. When such overpayments are collected, the funds shall be deposited back into the Division’s Medicaid Non-State account.

(d) The Division of Social Services is authorized to establish bank accounts to advance funds from the Employment and Training program to clients or vendors in a timely manner. These advances are to be for supportive services or welfare diversion services in the nature of clothing and transportation allowances and other services, to advance client self-sufficiency, as proposed in Delaware’s A Better Chance Welfare Reform Program.

(e) Members of the Council on Hispanic Affairs shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties not to exceed five hundred dollars annually.

(f) The Division of State Service Centers is authorized to collect and deposit tenant user fees from its 14 facilities throughout the State to the holding account entitled Facility Reimbursement. These fees are charged to partially offset the costs of service center operations.

(g) Appropriations for emergency assistance within the Division of State Service Centers may be used for programs of longer than 30 days duration.”

Section 17. Amend Section 29 Del. C. §7929, by adding a new subsection to read as follows:

“(d) The State accepts the provisions and benefits of the Vocational Rehabilitation Act of 1973 (P.L. 93-112), as amended. The Department of Health and Social Services shall act as the sole state agency with the Secretary of the Department as the State Officer, and Visually Impaired as the Designated State Unit for all monies from the Act that are designated for persons with visual impairment and blindness. This is defined in a Cooperative Agreement dated December 1985, between the Department of Labor, Visually Impaired and Vocational Rehabilitation. The Department shall cooperate with the U.S. Department of Education, Rehabilitation Services Administration and, in accordance with all State laws, prepare the State Plan and carry out the Rehabilitation Act of 1973 and amendments thereto.”

Section 18. Amend 29 Del. C. §5903 by adding new subsections (24) and (25) to read as follows:

“(24) One position within the Division of Public Health, Department of Health and Social Services, for a Dental Director.

(25) One position within the Division of Social Services, Department of Health and Social Services, for a Chief Physician.”

Section 19. Amend 29 Del. C. § 9003 by renaming the current subsection (16) to (17) and by adding a new subsection (16) as follows:

“(16) To certify annually on January 31, to the Governor and the General Assembly, that the mixing of adjudicated and non-adjudicated youths shall not take place in the Ferris School.”

Section 20. Amend 29 Del. C. c. 80 by adding a new section to read as follows:

“§ 8027. Notification

Except for land acquired by approval of the Open Space Council or approved through a Bond and Capital Improvements Act, land shall not be purchased by the Department of Natural Resources and Environmental Control

without prior approval of the Co-Chairs of the Joint Legislative Committee on the Capital Improvement Program provided, however, that the department is not prohibited from conducting studies, surveys or other contractual arrangements that would normally precede land acquisition procedures. The Department is also required to provide cost estimates to the co-chairs of the Joint Finance Committee and the Bond Bill Committee, these estimates will include costs to develop infrastructure, maintenance and the number of positions needed to maintain the land and the associated personnel costs.”

Section 21. Amend 29 Del. C. § 8507 by adding a new subsection to read as follows:

“(i) The Office of the Commission for Women is authorized to enter into a contract for the production, distribution and marketing of videos and printed materials, on such terms and conditions as deemed appropriate by the Department of Labor. All revenues received by the department from such contract shall be deposited in an appropriated special fund, and shall be used for the purpose of reproducing, marketing and distributing copies of video and printed materials.”

Section 22. Amend 29 Del. C. § 6340 by designating existing subsections (e) through (h) as (f) through (i) and by adding a new subsection (e) to read as follows:

“(e) The University of Delaware shall pay on a regularly scheduled basis as determined by the Secretary of Finance to the State Treasurer, at a rate determined under 29 Del. C. § 6340, or otherwise by the Secretary of Finance, the amount of all fringe benefits applicable to salaries and wages paid to employees of the University as the term “employee” is defined in §5501(a) and §5505 of this chapter, or any other fringe benefit costs applicable to the University.”

Section 23. Amend 29 Del. C. § 6904 by inserting a new subsection to read as follows:

“(m) This chapter shall not apply to the Department of Education in the procurement of goods and/or services from the University of Delaware, Delaware State University, and Delaware Technical and Community College.”

SYNOPSIS

This Act codifies certain sections of the Fiscal Year 2002 Budget Act such sections relating to the following:
Section 1 precludes agencies from hiring personnel consultants without Personnel Director, the Controller General and Budget Director authorization. Precludes Section 10 employees from receiving compensation in excess of that stipulated. Allows employees to be compensated in excess of primary salary if working for another agency simultaneously.

Section 2 stipulates that the acquisition of copiers for state buildings is to be managed by Administrative Services.

Section 3 authorizes the Budget Office to collect indirect costs from non-federal special funded programs.

Section 4 adds State Police recruits in training as eligible for food during working hours and allows the Budget

Director and Controller General to authorize other exceptions.

Section 5 states circumstances in which state employees may be provided with housing and without a reduction in compensation in exchange.

Section 6 stipulates the staff attorney and law clerk in the Court of Common Pleas are exempt positions

Section 7 defines powers and duties of Personnel Director to include 1) designate Staff Development Officer funded by assessments on trainee agency and 2) administer PHRST.

Section 8 reiterates the authorization of Auditor of Accounts to conduct audits of the state funded portion of finances of the University of Delaware and allows the University of Delaware and Auditor of Accounts to jointly select the contractor conducting the audit.

Section 9 permits the State Treasurer to establish and maintain a special fund appropriation to be credited with stale check write-off amounts.

Section 10 authorizes an appropriation for the Expense of Issuing Bonds in State Treasurer, Debt Management for payment of expenses relating to the issuance of State long-term debt.

Section 11 describes the collection and use of revenues by the Attorney General, specifically from activities of the Securities Division, the Attorney General Opinion Fund and educational videos.

Section 12 permits the Department of State-Historical & Cultural Affairs to retain revenue generated from current and future building rentals for operational support of these buildings.

Section 13 allows the Division of Revenue to charge for issuance of certificates of tax status and to treat the revenue generated as expenditure reducing items.

Section 14 indicates funds generated by the Department of Administrative Services - Surplus Services shall be transferred to Facilities Management and used for maintenance and restoration of state buildings.

Section 15 Department of Health and Social Services-Public Health fee-for-service program authorizations as appropriated special funds.

Section 16

Sub. Sec. (b) Medicaid Billing Authorization-Substance Abuse

Sub. Sec. (c) Federal Gov't Medicaid Reimbursement for overpayments from OTSI funds.

Sub. Sec. (d) Authorization for bank accounts to advance funds for Employment & Training Program.

Sub. Sec. (e) Council on Hispanic Affairs members reimbursement of expenses not to exceed \$500.00

Sub. Sec. (f) State Service Centers authorization to collect tenant user fees to offset operations.

Sub. Sec. (g) Authorization for emergency assistance in State Service Centers to be used for programs of longer than 30 day duration.

Section 17 provides for the Department of Health and Social Services-Division of the Visually Impaired to Act as sole state agency with respect to provisions and benefits of the Vocational Rehabilitation Act of 1973 as amended.

Section 18 positions exempted from the Classified Service in the Department of Health and Social Services, Public Health (Dental Director) and Social Services (Chief Physician)

Section 19 prohibits the mixing adjudicated and non-adjudicated youth in the Ferris School.

Section 20 requires the Department of Natural Resources to have the approval of the joint chairs of the Bond Bill Committee before purchasing land and notifying the Joint Finance Committee of any anticipated costs to develop infrastructure and maintenance of the land purchase.

Section 21 allows the Commission for Women (Department of Labor) to enter into contract for the production, distribution, and marketing of video and printed materials.

Section 22 requires the University of Delaware to pay the State Treasurer for all fringe benefits applicable to salaries and wages paid to state supported employees.

Section 23 exempts the Department of Education from state procurement laws when contracting with the University of Delaware, Delaware State University, and Del Tech.