

**WEST VIRGINIA LEGISLATURE**  
*Joint Committee on Government and Finance*

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Memorandum  
**DRAFT**

**To:** Joint Committee on Government and Finance  
Post Audit Subcommittee Members

**From:** Aaron Allred, Legislative Auditor *AAA*

**Date:** August 11, 2009

**Subject:** Failure To Pay Annual Increment On July 1 As Required By Statute

**Condition**

State employees have not been paid their annual increment pay on July 1 as required by law. Instead, the State Auditor's Office has historically paid state employees their annual increment pay on July 30.

**Criteria**

State law specifically requires annual increment payments to be paid on July 1 of each year. §5-5-2 reads:

§5-5-2. Granting incremental salary increases based on years of service.

“a) Every eligible employee with three or more years of service shall receive an annual salary increase equal to sixty dollars times the employee's years of service.

**In each fiscal year and on the first day of July**, each eligible employee shall receive an annual increment increase of sixty dollars for that fiscal year.”

**(Emphasis added)**

## Cause

According to the State Auditor, there are technical difficulties in complying with the July 1 legal requirement. The State Auditor informed the Legislative Auditor:

“...[U]tilization of a July first payment date does not take into consideration the time and attention required to accurately and fully complete the State’s payment process. For example, an increment payment could not issue in a new fiscal year until all valid financed contributions for payroll related expenditures are received, the account extensions are built and the expenditure schedules are completed. This year these processes were completed on the twenty-first of July.

The July 30<sup>th</sup> payment date allows for the submission of accurate accounting information, accurate increment calculations based on year end employment data, as well as the completion of all necessary processing.”

However, the State Treasurer informed the Legislative Auditor’s Office:

“My staff and I have discussed the matter and after a review of the relevant case law, statutes and Opinions of the Attorney General, I believe the annual increment is to be paid on July 1<sup>st</sup>.

If we ignore the fact that the Legislature stated payment is to be made on July 1<sup>st</sup>, it appears that increment is actually payable on June 30<sup>th</sup> of each fiscal year for those eligible employees employed on June 30<sup>th</sup>. By establishing July 1<sup>st</sup> as the date payment is to be made, the Legislature has allowed the state an additional day to make the payments. Any difficulty in getting the annual increment payments processed would be the same as those for employees paid current (as opposed to one pay cycle in arrears for those hired after July 1, 2002).

Treasury accounts had sufficient liquidity on July 1, 2009 for the Office to process the increment payments. However, this Office cannot make payments until we receive the warrant of the Auditor.”

## Effect

By failing to pay state employees their increment pay on July 1 of each year as required by law, the State obtains the interest earning on these funds statutorily owed to state employees for an additional 29 days. On July 30, 2009, the State paid employees \$24,468,133 in increment checks. Using an 8% interest rate, which the State uses on over payments of taxes, the state’s gain and the loss to employees was \$156,000 in interest income in July 2009. Using a 3% interest rate, the state’s gain and the loss to employees was \$58,000 in interest income in July 2009. Over the past 10 years at an 8% interest rate, the state’s gain and the loss to employees

was \$1,080,000 in interest income. Over the past 10 years at a 3% interest rate, the state's gain and the loss to employees was \$406,000 in interest income.

**Recommendation**

The State Auditor should determine and implement a payment process to pay State employees their increment pay on July 1 of each year beginning in 2010 as required by state law.