

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 628

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CLINE

[Originating in the Committee on the Judiciary;

reported on March 20, 2017]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15-5-29; to amend and reenact §50-3-2 of said code; and to amend and
3 reenact §62-5-10 of said code, all relating to creating a special revenue account in the
4 State Treasury known as the Statewide Interoperable Radio Network Account; setting
5 forth funding sources; providing for appropriation of moneys in the account; providing
6 purposes for which the moneys may be used; providing for quarterly accounting; and
7 providing funding for the Statewide Interoperable Radio Network through additional court
8 costs to be imposed in criminal cases.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §15-5-29; that §50-3-2 of said code be amended and reenacted; and that
3 §62-5-10 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-29. Creation of the Statewide Interoperable Radio Network Account; purpose; funding; disbursements.

1 (a) There is created in the State Treasury a separate special revenue account, which shall
2 be an interest-bearing account, to be known as the "Statewide Interoperable Radio Network
3 Account". The special revenue account shall consist of income generated from the Statewide
4 Interoperable Radio Network, appropriations made by the Legislature, income from the
5 investment of moneys held in the special revenue account, grant money and all other sums
6 available for deposit to the special revenue account from any source, public or private.
7 Expenditures for purposes of this section are not authorized from collections, except in
8 accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of

9 the provisions set forth in article two, chapter five-a of this code. Expenses incurred under this
10 section are not charges against the general funds of the state.

11 (b) The Director of Homeland Security and Emergency Management shall appropriate and
12 use moneys in the special revenue account exclusively, in accordance with appropriations by the
13 Legislature, to pay costs, fees and expenses incurred, or to be incurred for the following purposes:
14 (1) the maintenance, upkeep and repair of the Statewide Interoperable Radio Network; (2) any
15 personnel required to operate and maintain the Statewide Interoperable Radio Network; (3) the
16 design, implementation and management of the Statewide Interoperable Radio Network; (4) all
17 other related Statewide Interoperable Radio Network activities approved by the director; and (5)
18 all costs incurred in the administration of the Statewide Interoperable Radio Network Account.

19 (c) Any balance remaining in the special revenue account at the end of any state fiscal
20 year shall not revert to the General Revenue Fund but shall remain in the special revenue account
21 and shall be used solely in a manner consistent with this section.

22 (d) The director or his or her designee shall authorize disbursements from the special
23 revenue account. Moneys in the special revenue account are not available for the payment of any
24 personal injury claims, workers' compensation claims or other types of disability claims.

25 (e) Quarterly, the director shall prepare an accounting of all moneys disbursed from the
26 Statewide Interoperable Radio Network Account. This accounting shall include the reason for the
27 disbursement, the recipients of any disbursement and the source of any deposit.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2. Costs in criminal proceedings.

1 (a) In each criminal case before a magistrate court in which the defendant is convicted,
2 whether by plea or at trial, there is imposed, in addition to other costs, fines, forfeitures or penalties
3 ~~as may be~~ allowed by law: (1) Costs in the amount of \$60, of which \$5 of that amount shall be

4 deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-
5 six, chapter twenty-nine of this code; (2) an amount equal to the one-day per diem provided for in
6 subsection (h), section ten, article twenty, chapter thirty-one of this code; ~~and~~ (3) costs in the
7 amount of \$30 to be deposited in the Regional Jail Operations Partial Reimbursement Fund
8 created by section ten-b of said article; and, (4) costs in the amount of \$30 to be deposited in the
9 Statewide Interoperable Radio Network Account created by section twenty-nine, article five,
10 chapter fifteen of this code. A magistrate may not collect costs in advance. Notwithstanding any
11 other provision of this code, a person liable for fines and court costs in a criminal proceeding in
12 which the defendant is confined or imprisoned in a jail or ~~prison~~ a correctional facility and not
13 participating in a work release program shall not be held liable for the fines and court costs until
14 one hundred eighty days after completion of the term in jail or ~~prison~~ correctional facility. A
15 magistrate court shall deposit \$5 from each of the criminal proceedings fees collected pursuant
16 to this section in the Court Security Fund created in section fourteen, article three, chapter fifty-
17 one of this code. A magistrate court shall, on or before the tenth day of the month following the
18 month in which the fees imposed in this section were collected, remit an amount equal to the one-
19 day per diem provided for in subsection (h), section ten, article twenty, chapter thirty-one of this
20 code from each of the criminal proceedings in which the fees specified in this section were
21 collected to the magistrate court clerk, or if there is no magistrate court clerk to the clerk of the
22 circuit, together with information as may be required by the rules of the Supreme Court of Appeals
23 and the rules of the Office of Chief Inspector. These moneys are paid to the sheriff who shall
24 distribute ~~the moneys~~ them solely in accordance with the provisions of section fifteen, article five,
25 chapter seven of this code. Amendments made to this section during the 2001 regular session of
26 the Legislature, are effective after June 30, 2001. Amendments made to this section during the
27 2017 regular session of the Legislature, are effective beginning July 1, 2017.

28 (b) A magistrate shall assess costs in the amount of \$2.50 for issuing a sheep warrant and
29 the appointment and swearing appraisers and docketing the proceedings.

30 (c) In each criminal case which must be tried by the circuit court, but in which a magistrate
31 renders some service, costs in the amount of \$10 shall be imposed by the magistrate court and
32 is certified to the clerk of the circuit court in accordance with the provisions of section six, article
33 five, chapter sixty-two of this code.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 5. COSTS IN CRIMINAL CASES.

§62-5-10. Mandatory cost assessed upon conviction of a felony.

1 (a) Every circuit court shall assess, in every felony criminal matter as a cost to the
2 defendant, an assessment in the sum of ~~\$75~~ \$100 for each felony count of conviction. The
3 assessment referred to ~~herein~~ in this subsection shall be paid upon adjudication of guilt unless
4 the court determines that the defendant is unable to pay ~~in such a manner~~ the assessment at that
5 time, in which case payment of the assessment shall be paid prior to final disposition. If the circuit
6 court determines that a defendant is financially unable to pay the assessment prior to final
7 disposition, payment of the assessment shall be a mandatory condition of probation or parole.

8 (b) The clerk of the circuit court ~~wherein~~ where the assessment is imposed under the
9 provisions of subsection (a) of this section shall, on or before the last day of each month, transmit
10 all costs received pursuant to this section to the State Treasurer for deposit as follows: Fifty dollars
11 to the credit of the Crime Victims Compensation Fund created by the provisions of section four,
12 article two-a, chapter fourteen of this code; ~~and~~ \$25 to the credit of the West Virginia Community
13 Corrections Fund created by the provisions of section four, article eleven-c of this chapter and
14 \$25 to the credit of the Statewide Interoperable Radio Network Account created by section twenty-
15 nine, article five, chapter fifteen of this code.

NOTE: The purpose of this bill is to provide funding for the Statewide Interoperable Radio Network through additional court costs to be imposed in criminal cases.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.