

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **Senate Bill 628**

**FISCAL  
NOTE**

BY SENATORS RUCKER, BOSO, SYPOLT, TRUMP AND

CLINE

[Introduced March 16, 2017; Referred  
to the Committee on the Judiciary; and then to the  
Committee on Finance]

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 providing funding for the Statewide  
 4 Interoperable Radio Network through additional court costs to be imposed in criminal  
 5 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. No  
 7 expenditures for purposes of this section are authorized from collections except in accordance  
 8 with the provisions of article three, chapter twelve of this code and upon fulfillment of the  
 9 provisions set forth in article two, chapter five-a of this code. No expenses incurred under this  
 10 section are charges against the general funds of the state.

11 (b) Moneys in the special revenue account shall be appropriated to the Director of

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

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

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

26 (e) Quarterly, the director shall prepare an accounting of all moneys disbursed from the  
 27 Statewide Interoperable Radio Network Account. This accounting shall include the reason for the  
 28 withdraw, the recipients of any withdraw 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; (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 in a jail or ~~prison~~ a correctional facility and not participating in a  
13 work release program shall not be held liable for the fines and court costs until one hundred eighty  
14 days after completion of the term in jail or ~~prison~~ correctional facility. A magistrate court shall  
15 deposit \$5 from each of the criminal proceedings fees collected pursuant to this section in the  
16 Court Security Fund created in section fourteen, article three, chapter fifty-one of this code. A  
17 magistrate court shall, on or before the tenth day of the month following the month in which the  
18 fees imposed in this section were collected, remit an amount equal to the one-day per diem  
19 provided for in subsection (h), section ten, article twenty, chapter thirty-one of this code from each  
20 of the criminal proceedings in which the fees specified in this section were collected to the  
21 magistrate court clerk, or if there is no magistrate court clerk to the clerk of the circuit, together  
22 with information as may be required by the rules of the Supreme Court of Appeals and the rules  
23 of the Office of Chief Inspector. These moneys are paid to the sheriff who shall distribute the  
24 moneys solely in accordance with the provisions of section fifteen, article five, chapter seven of  
25 this code. Amendments made to this section during the 2001 regular session of the Legislature,  
26 are effective after June 30, 2001. Amendments made to this section during the 2017 regular  
27 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 shall be paid upon adjudication of guilt unless the court determines  
 4 that the defendant is unable to pay in such a manner in which case payment of the assessment  
 5 shall be paid prior to final disposition. If the circuit court determines that a defendant is financially  
 6 unable to pay the assessment prior to final disposition, payment of the assessment shall be a  
 7 mandatory condition of probation or parole.

8 (b) The clerk of the circuit court wherein the assessment is imposed under the provisions  
 9 of subsection (a) of this section shall, on or before the last day of each month, transmit all costs  
 10 received pursuant to this section to the State Treasurer for deposit as follows: Fifty dollars to the  
 11 credit of the Crime Victims Compensation Fund created by the provisions of section four, article  
 12 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.