

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4355

BY DELEGATES PORTERFIELD, FOSTER, BIBBY, STEELE,

BUTLER, WAXMAN, J. JEFFRIES, JENNINGS, MANDT,

KESSINGER AND HILL

[Introduced January 15, 2020; Referred to the Committee
on Political Subdivisions then Government Organization]

1 A BILL to amend and reenact §7-5-16 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §8-13-23 of said code, all relating to allowing municipalities and
 3 counties to post their annual financial statements on the Internet instead of publishing
 4 them in newspapers.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-16. Preparation, publication and disposition of financial statements.

1 (a) The county commission of every county, by October 15 of each fiscal year, shall
 2 prepare on a form to be prescribed by the State Tax Commissioner, and cause to be published a
 3 statement revealing: (1) The receipts and expenditures of the county during the previous fiscal
 4 year arranged under descriptive headings; (2) the name of each firm, corporation, and person
 5 who received more than \$50 from any fund during the previous fiscal year, together with the
 6 amount received and the purpose for which paid; and (3) all debts of the county, the purpose for
 7 which each debt was contracted, its due date, and to what date the interest thereon has been
 8 paid: *Provided*, That all salaries, receipts and expenditures to all county employees by office or
 9 department may be published in the aggregate.

10 (b) The county commission shall transmit to any resident of the county requesting a copy
 11 of the published statement for the fiscal year designated, supplemented by a list of the names of
 12 each firm, corporation and person who received less than \$50 from any fund during the fiscal year
 13 showing the amount paid to each, the purpose for which paid and an itemization of the salaries,
 14 receipts and expenditures to all county employees by office or department otherwise published in
 15 the aggregate.

16 (c) If a county commission willfully fails or refuses to perform the duties required in this
 17 section, every member of the commission, concurring in the failure or refusal, is guilty of a

18 misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100;
 19 and the prosecuting attorney of any county shall, when the failure or refusal shall come to the
 20 prosecuting attorney's knowledge, immediately present the evidence thereof to the grand jury if
 21 in session, and if not in session, the prosecuting attorney shall institute proper criminal
 22 proceedings before a magistrate against any offender, and cause the failure or refusal to be
 23 investigated by the next succeeding grand jury.

24 (d) Where in subsections (a) and (b), salaries, receipts and expenditures are published in
 25 the aggregate, the county commission shall, upon written request, provide to any resident of the
 26 county an itemized accounting of the salaries, receipts and expenditures.

27 (e) By October 15 of each fiscal year, each county commission shall:

28 (1) Publish the financial statement as a Class I-0 legal advertisement in compliance with
 29 the provisions of §59-3-1 et seq. of this code. and The publication area for such the publication
 30 shall be is the county; or

31 (2) Publish a notice that the requisite financial statements are available to the public, free
 32 of charge, at the county's primary office and on a website maintained by the county. Each notice
 33 shall contain the office address and the website address where financial statements are available.
 34 The statement shall be published as a Class I legal advertisement in compliance with the
 35 provisions of §59-3-1 et seq. of this code. The publication area for the publication is the county.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 13. TAXATION AND FINANCE.

§8-13-23. Preparation, publication and disposition of financial statements.

1 (a) Every city, within 90 days after the beginning of each fiscal year, shall prepare on a
 2 form to be prescribed by the State Tax Commissioner and cause to be published a sworn
 3 statement revealing: (1) The receipts and expenditures of the city during the previous fiscal year;
 4 (2) the name of each person who received more than \$50 during the previous fiscal year, together

5 with the amount received; and (3) all debts of the city, the purpose for which each debt was
6 contracted, its due date and to what date the interest on the debt has been paid. The city shall
7 either:

8 (1) Publish the statement ~~shall be published~~ as a Class I legal advertisement in compliance
9 with the provisions of §59-3-1 *et seq.* of this code, ~~and~~ The publication area for the publication
10 ~~shall be~~ is the city: *Provided*, That all salaries, receipts, payments to each individual vendor and
11 expenditures to employees of municipal offices, companies and departments may be published
12 in the aggregate; or

13 (2) Publish a notice that the requisite financial statement is available to the public, free of
14 charge, at the county's primary office and on a website maintained by the county. Each notice
15 shall contain the office address and the website address where financial statements are available.
16 The statement shall be published as a Class I legal advertisement in compliance with the
17 provisions of §59-3-1 et seq. of this code. The publication area for the publication is the city.

18 (b) Every city shall transmit to any resident of the city who requests it a copy of any
19 published statement for the fiscal year designated, supplemented by a document listing the
20 names of each person who received less than \$50 from any fund during the fiscal year and
21 showing the amount paid to each and the purpose for which paid and an itemization of the
22 salaries, receipts, payments to each individual vendor and expenditures to employees of
23 municipal offices, companies and departments otherwise published in the aggregate.

24 (c) Every town or village, within 120 days after the beginning of each fiscal year, shall
25 prepare on a form to be prescribed by the State Tax Commissioner a sworn statement revealing:

26 (1) The receipts and expenditures of the town or village during the previous fiscal year arranged
27 under descriptive headings; (2) the name of each person who received money from any fund
28 during the previous fiscal year, together with the amount received and the purpose for which paid;
29 and (3) all debts of the town or village, the purpose for which each debt was contracted, its due
30 date and to what date the interest on the debt has been paid: *Provided*, That all salaries, receipts,

31 payments to each individual vendor and expenditures to employees of municipal offices,
32 companies and departments may be published in the aggregate.

33 (d) Every town or village shall transmit to any resident of the town or village who requests
34 it, a copy of any statement for the fiscal year designated. Any town or village may, if its governing
35 body thereof elects, also publish the statement as a Class I legal advertisement in compliance
36 with the provisions of §59-3-1 *et seq.* of this code and in that event, the publication area for the
37 publication ~~shall be~~ is the town or village; or publish a notice, as a Class I legal advertisement in
38 compliance with the provisions of §59-3-1 *et seq.* of this code with the publication area being the
39 town or village, that the requisite financial statement is available to the public, free of charge, on
40 a website maintained by the town or village.

41 (e) The statement required by subsection (a) of this section and the statement required by
42 subsection (c) of this section shall be sworn to by the recorder, the mayor and two members of
43 the governing body of the municipality. As soon as practicable following the close of the fiscal
44 year, a copy of any statement required by this section shall be filed by the municipality with the
45 State Tax Commissioner, the clerk of the county commission of the county and the clerk of the
46 circuit court of the circuit in which the municipality or the major portion of the territory of the
47 municipality is located. If the governing body fails or refuses to perform any of the duties set forth
48 in this section, every member of the governing body and the recorder of the governing body
49 concurring in the failure or refusal ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof,
50 shall be fined not less than \$10 nor more than \$100. If any of the provisions of this section are
51 violated, it is the duty of the prosecuting attorney of the county in which the municipality or the
52 major portion of the territory of the municipality is located to immediately present the evidence of
53 the violation to the grand jury if in session, and if not in session he or she shall cause the violations
54 to be investigated by the next succeeding grand jury.

55 (f) Where in subsections (a), (b) and (c) of this section, salaries, receipts, payments to
56 each individual vendor and expenditures are published in the aggregate, the city, town or village

57 shall, upon written request, provide to any resident of the city, town or village an itemized
58 accounting of the salaries, receipts, payments to each individual vendor and expenditures.

NOTE: The purpose of this bill is to allow municipalities and counties to post their annual financial statements on the Internet instead of publishing them in newspapers.

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