

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

**House Bill 4859**

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[Passed March 4, 2020; in effect ninety days from passage.]



1 AN ACT to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §12-4-14b of said code, all relating to accounting for state funds  
3 distributed to volunteer and part-volunteer fire companies and departments; clarifying that  
4 use of such moneys for debt reduction is authorized only if the debts were incurred for  
5 specified purposes; authorizing the investment of such moneys with certain restrictions;  
6 and amending the definition of 'state funds accounts'.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and  
Protection Fund and the Fire Protection Fund; deductions for unauthorized  
expenditures; record retention.**

1 (a) Money received from the state for volunteer and part-volunteer fire companies and  
2 departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, may not be  
3 commingled with moneys received from any other source, except money received as a grant from  
4 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code. Distributions  
5 from the Municipal Pensions and Protection Fund and the Fire Protection Fund allocated to  
6 volunteer and part-volunteer fire companies and departments may be expended only for the  
7 following:

8 (1) Personal protective equipment, including protective head gear, bunker coats, pants,  
9 boots, combination of bunker pants and boots, coats, and gloves;

10 (2) Equipment for compliance with the national fire protection standard or automotive fire  
11 apparatus, NFPA-1901;

12 (3) Compliance with insurance service office recommendations relating to fire  
13 departments;

14 (4) Rescue equipment, communications equipment, and ambulance equipment: *Provided,*  
15 That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection  
16 Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-  
17 volunteer fire company or department members;

18 (5) Capital improvements reasonably required for effective and efficient fire protection  
19 service and maintenance of the capital improvements;

20 (6) Retirement of debts, but only if the debts were incurred exclusively for the purchase of  
21 the goods and services allowed under this subsection;

22 (7) Payment of utility bills;

23 (8) Payment of the cost of immunizations, including any laboratory work incident to the  
24 immunizations, for firefighters against hepatitis-b and other blood-borne pathogens: *Provided,*  
25 That the vaccine shall be purchased through the state immunization program or from the lowest-  
26 cost vendor available: *Provided, however,* That volunteer and part-volunteer fire companies and  
27 departments shall seek to obtain no-cost administration of the vaccinations through local boards  
28 of health: *Provided further,* That in the event any volunteer or part-volunteer fire company or  
29 department is unable to obtain no-cost administration of the vaccinations through a local board of  
30 health, the company or department shall seek to obtain the lowest cost available for the  
31 administration of the vaccinations from a licensed health care provider;

32 (9) Any filing fee required to be paid to the Legislative Auditor's Office under §12-4-14 of  
33 this code relating to sworn statements of annual expenditures submitted by volunteer or part-  
34 volunteer fire companies or departments that receive state funds or grants;

35 (10) Property/casualty insurance premiums for protection and indemnification against loss  
36 or damage or liability;

37 (11) Operating expenses reasonably required in the normal course of providing effective  
38 and efficient fire protection service, which include, but are not limited to, gasoline, bank fees,  
39 postage, and accounting costs;

40 (12) Dues paid to national, state, and county associations;

41 (13) Workers' compensation premiums;

42 (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters;

43 and

44 (15) Educational and training supplies and fire prevention promotional materials, not to  
45 exceed \$500 per year.

46 (b) If a volunteer or part-volunteer fire company or department spends any amount of  
47 money received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for  
48 an item, service, or purpose not authorized by this section, that amount, when determined by an  
49 official audit, review, or investigation, shall be deducted from future distributions to the volunteer  
50 fire company or part-volunteer fire department.

51 (c) If a volunteer or part-volunteer fire company or department purchases goods or  
52 services authorized by this section, but then returns the goods or cancels the services for a refund,  
53 then any money refunded shall be deposited back into the same, dedicated bank account used  
54 for the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire  
55 Protection Fund.

56 (d) Each volunteer or part-volunteer fire company and department shall retain, for five  
57 calendar years, all invoices, receipts, and payment records for the goods and services paid with  
58 money received from the state for volunteer and part-volunteer fire companies and departments,  
59 pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from  
60 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

61 (e) Volunteer and part-volunteer fire companies and departments may also invest the  
62 received moneys, described in subsection (a) of this section, and collect interest thereon:

63 *Provided*, That volunteer and part-volunteer fire companies and departments shall not commingle  
64 the received moneys with funds received from any other source, shall not use the invested money  
65 as collateral or security for any loan, and shall retain all resulting statements of accounts and  
66 earnings for a minimum of five years from the date of the statements.

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

#### **§12-4-14b. Accountability of volunteer and part-volunteer fire companies or departments receiving state funds for equipment and training; review or audit of expenditures; withholding of state funds for delinquency or misuse; notifications.**

1 (a) *Definitions*. — For the purposes of this section:

2 “Equipment and training grant” means a grant of money to a volunteer fire company or a  
3 part-volunteer fire department from the Fire Service Equipment and Training Fund created in §29-  
4 3-5f of this code;

5 “Formula distribution” means a distribution of money to volunteer and part-volunteer fire  
6 companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code;  
7 and

8 “State funds accounts” means every bank account and investment account established by  
9 a volunteer or part-volunteer fire company or department into which the volunteer or part-  
10 volunteer fire company or department has deposited or invested money from formula distributions  
11 and equipment and training grants.

12 (b) *Filing required documentation*. — Every volunteer and part-volunteer fire company or  
13 department seeking to receive formula distributions or an equipment and training grant shall file  
14 copies of bank statements and check images from the company’s or department’s state funds  
15 accounts for the previous calendar year with the Legislative Auditor on or before February 1 of  
16 each year.

17           (c) *Reviews and audits.* — The Legislative Auditor is authorized to conduct regular reviews  
18 or audits of deposits and expenditures from formula distribution and equipment and training grant  
19 funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may  
20 assign an employee or employees to perform audits or reviews at his or her direction. The State  
21 Treasurer shall provide the Legislative Auditor information, in the manner designated by the  
22 Legislative Auditor, concerning formula distributions and equipment and training grants paid to  
23 volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire  
24 company or department shall cooperate with the Legislative Auditor, the Legislative Auditor's  
25 employees, and the State Auditor in performing their duties under the laws of this state.

26           (d) *State Auditor.* — Whenever the State Auditor performs an audit of a volunteer or part-  
27 volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of  
28 other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and  
29 §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The  
30 Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit  
31 under this section.

32           (e) *Withholding of funds.* —The Treasurer is authorized to withhold payment of a formula  
33 distribution or an equipment and training grant from a volunteer or part-volunteer fire company or  
34 department, when properly notified by the Legislative Auditor pursuant to this section, of any of  
35 the following conditions:

36           (1) Failure to file, in a timely manner, copies of bank statements and check images with  
37 the Legislative Auditor;

38           (2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

39           (3) Misapplication of state funds; or

40           (4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14  
41 of this code for a state grant other than an equipment and training grant.

42           (f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company  
43 or department has failed to file the required bank statements and check images with the  
44 Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at  
45 two separate times in writing of the delinquency and of possible forfeiture of its Fire Service  
46 Equipment and Training Fund distribution for the year. If the required bank statements and check  
47 images are not filed with the Legislative Auditor by March 31, unless the time period is extended  
48 by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold  
49 payment of any amount that would otherwise be distributed to the company or department. Prior  
50 to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall  
51 notify each delinquent company or department twice per each quarter in which the company or  
52 department is delinquent. The Legislative Auditor may choose the method or methods of  
53 notification most likely to be received by the delinquent company or department.

54           (g) *Noncooperation.* — If, in the course of an audit or review by the Legislative Auditor, a  
55 volunteer or part-volunteer fire company or department fails to provide documentation of its  
56 accounts and expenditures in response to a request of the Legislative Auditor, the Legislative  
57 Auditor shall notify the State Treasurer who shall withhold payment of any amount that would  
58 otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-  
59 3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the  
60 company or department has cooperated with the review or audit.

61           (h) *Reporting of other grants.* — Nothing in this section alters the duties and  
62 responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-  
63 4-14 of this code if that company or department has received funds from any state grant program  
64 other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified  
65 by a grantor that a volunteer or part-volunteer fire company or department has failed to file a  
66 report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor



67 shall notify the State Treasurer who shall withhold further distributions to the company or  
68 department in the manner provided in this section.

69 (i) *Escrow and forfeiture of moneys withheld.* — The Volunteer Fire Department Audit  
70 Account previously created in the Treasury is hereby continued. When the State Treasurer  
71 receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company  
72 or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld  
73 into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the  
74 volunteer or part-volunteer fire company or department has come into compliance in less than  
75 one year from the date of deposit into this special revenue account, then the Treasurer shall  
76 release and distribute the withheld amounts to the company or department, except that any  
77 interest that has accrued thereon shall be credited to the general revenue of the state. If, after  
78 one year from payment of the amount withheld into the special revenue account, the Legislative  
79 Auditor informs the State Treasurer of continued noncooperation by the company or department,  
80 the delinquent company or department forfeits the amounts withheld and the State Treasurer shall  
81 pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of  
82 this code.

83 (j) *Misuse of state money.* — If the Legislative Auditor determines that a volunteer or part-  
84 volunteer fire company or department has used formula distribution money for purposes not  
85 authorized by §8-15-8b of this code or has used equipment and training grant money for purposes  
86 not authorized by the grant program, the Legislative Auditor shall give a written notice of  
87 noncompliance to the company or department. If a volunteer or part-volunteer fire company or  
88 department disagrees or disputes the finding, the company or department may contest the finding  
89 by submitting a written objection to the Legislative Auditor within five working days of receipt of  
90 the Legislative Auditor's finding. The department or company shall then have 60 days from the  
91 date of the Legislative Auditor's finding to provide documentation to substantiate that the  
92 expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company

93 or department does not dispute the findings of the Legislative Auditor or if the company or  
94 department is not able to substantiate an authorized purpose for the expenditure, the Legislative  
95 Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall  
96 deduct that amount from future distributions to that company or department until the full amount  
97 of unauthorized expenditure is offset.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

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*Governor*