

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3011**

By Delegate Foster

[Introduced January 24, 2023; Referred to the  
Committee on Government Organization then  
Finance]

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1 A BILL to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating to  
 2 monetary requirements of the boards; reducing the fund balance amounts of the boards to  
 3 the average annual expenses from the previous five years; creating an Occupational  
 4 Licensing Legal Fund from existing revenues; providing for transfer of money from excess  
 5 receipts of occupational licensing boards; specifying authorized uses of the funds;  
 6 providing that expenditures are subject to appropriation by the Legislature; and requiring a  
 7 balance transfer to the General Revenue Fund.

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

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF  
 EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

**§30-1-10. Disposition of money fines; legislative audit; review of board’s fee structure.**

1 (a) The secretary of every board referred to in this chapter shall receive and account for all  
 2 money which it derives pursuant to the provisions of this chapter which are applicable to it. With  
 3 the exception of money received as fines, each board shall pay all money which is collected into a  
 4 separate special fund of the State Treasury which has been established for each board. This  
 5 money shall be used exclusively by each board for purposes of administration and enforcement of  
 6 its duties pursuant to this chapter. Any money received as fines shall be deposited into the General  
 7 Revenue Fund of the State Treasury. When the special fund of any board accumulates to an  
 8 amount which exceeds ~~twice the annual budget~~ the average actual annual expenses over the past  
 9 five years, excluding zero-dollar years, of the board or \$10,000, whichever is greater, the State  
 10 Treasurer shall:

11 (1) Transfer the excess amount to the Occupational Licensing Legal Fund created in  
 12 subsection (c) of this section;

13 ~~(4)(2) Any amount exceeding a \$1,500,000.00 balance in the Occupational Licensing~~  
 14 Legal Fund, transfer ~~Transfer~~ the excess amount to the state General Revenue Fund; and

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15           ~~(2)~~(3) Notify the Legislative Auditor that the transfer has been made.

16           (b) (1) Every licensing board which is authorized by the provisions of this chapter shall be  
17 subject to audit by the office of the Legislative Auditor.

18           (2) Within a reasonable time after the State Treasurer notifies the Legislative Auditor of a  
19 transfer required to be made under this section, the Legislative Auditor shall conduct a review of  
20 the fee structure of the applicable board to determine if the amount of the board's fees generate  
21 excessive revenue, when compared to the board's normal expenses. If the Legislative Auditor  
22 finds that excess revenue is generated, he or she shall report his or her findings to the  
23 Legislature's Joint Standing Committee on Government Organization, along with  
24 recommendations on how the fees can be adjusted to generate only the amount the board  
25 reasonably needs to operate under this chapter.

26           (c) Beginning July 1, 2023, the Occupational Licensing Legal Fund is hereby created in the  
27 State Treasury. The Fund shall be administered by the Finance Division of the Department of  
28 Administration and shall consist of all moneys made available from any source, including, but not  
29 limited to, all amounts transferred into the Fund by the boards as required by subsection (a) of this  
30 section or transfers from any source, any moneys that may be appropriated and designated for the  
31 Fund by the Legislature, and all interests or other return earned from investment of the Fund. The  
32 Finance Division of the Department of Administration, in concert and with consultation from the  
33 boards, shall review and approve all invoices from the Office of the Attorney General prior to  
34 submitting expenses to be paid from the Fund.

35           Expenditures of the Fund shall be used to pay legal fees and court costs to the West  
36 Virginia Attorney General, or other counsel as may be required pursuant to this subsection,  
37 incurred within the operation of the licensing boards covered under this chapter and are not  
38 authorized from collections, but are to be made only in accordance with appropriations from the  
39 Legislature and in accordance with §12-3-1 of this code and upon the fulfillment of the provisions  
40 set forth in §11B-2-1 et seq., of this code. Any balance, including accrued interest and other

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41 returns, remaining in the Fund at the end of each fiscal year shall not revert to the General  
42 Revenue Fund, but shall remain in the fund and be expended as provided by this section:  
43 *Provided, That before this fund may be used for outside counsel, the Office of the Attorney*  
44 *General must indicate that the office lacks the required expertise or staff to adequately represent*  
45 *the board in any proceedings.*

NOTE: The purpose of this bill is to establish a special revenue fund out of existing receipts from all the Chapter 30 boards to pay legal fees and court costs to the Attorney General's office, or other counsel, incurred within operation of the board.

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