

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4452

FISCAL
NOTE

By Delegate Gearheart

[Introduced January 10, 2024; Referred
to the Committee on Finance]

1 A BILL to amend and reenact §12-2-2 of the Code of West Virginia, 1931, as amended, relating to
 2 the forfeiture of unencumbered funds in special revenue accounts and repayment of
 3 certain percentages of the special revenue accounts to the General Revenue Fund, if
 4 these accounts have been inactive for designated periods; and prohibiting expenditures
 5 from these accounts pending the forfeiture of the funds.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE
 STATE OR ANY POLITICAL SUBDIVISION.**

**§12-2-2. Itemized record of moneys received for deposit; regulations governing deposits;
 credit to state fund; exceptions.**

1 (a) All officials and employees of the state authorized by statute to accept moneys on
 2 behalf of the State of West Virginia shall keep a daily itemized record of moneys received for
 3 deposit in the State Treasury and shall deposit within one business day with the State Treasurer all
 4 moneys received or collected by them for or on behalf of the state for any purpose whatsoever.
 5 The State Treasurer may grant an exception to the one business day rule when circumstances
 6 make compliance difficult or expensive. The State Treasurer may review the procedures and
 7 methods used by officials and employees authorized to accept moneys due the state and change
 8 the procedures and methods if he or she determines it is in the best interest of the state: *Provided,*
 9 That the State Treasurer may not review or amend the procedures by which the Department of
 10 Revenue accepts moneys due the state: *Provided, however,* That absent an exemption granted
 11 by the State Treasurer, the Department of Revenue must utilize the State Treasurer's contracts or
 12 agreements entered into pursuant to §12-1-2 or §12-3A-6 of this code for any banking goods and
 13 services required for said procedures. The State Treasurer shall propose rules for legislative
 14 approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code governing the
 15 procedure for deposits. The official or employee making deposits with the State Treasurer shall

16 prepare deposit lists in the manner and upon report forms prescribed by the State Treasurer in the
17 state accounting system. The State Treasurer shall review the deposits in the state accounting
18 system and forward the information to the State Auditor and to the Secretary of Revenue.

19 (b) All moneys received by the state from appropriations made by the Congress of the
20 United States shall be recorded in special fund accounts, in the State Treasury apart from the
21 general revenues of the state, and shall be expended only upon appropriation of the Legislature in
22 accordance with ~~the provisions of §4-11-1 et seq.~~ of this code. All moneys, other than federal
23 funds, defined in §4-11-2 of this code, shall be credited to the state fund and treated by the State
24 Auditor and State Treasurer as part of the general revenue of the state except the following funds
25 which shall be recorded in separate accounts:

26 (1) All funds excluded by ~~the provisions of §4-11-6~~ of this code;

27 (2) All funds derived from the sale of farm and dairy products from farms operated by any
28 spending unit of the state;

29 (3) All endowment funds, bequests, donations, executive emergency funds and death and
30 disability funds;

31 (4) All fees and funds collected at state educational institutions for student activities;

32 (5) All funds derived from collections from dormitories, boardinghouses, cafeterias, and
33 road camps;

34 (6) All moneys received from counties by institutions for the deaf and blind on account of
35 clothing for indigent pupils;

36 (7) All insurance collected on account of losses by fire and refunds;

37 (8) All funds derived from bookstores and sales of blank paper and stationery, and
38 collections by the chief inspector of public offices;

39 (9) All moneys collected and belonging to the capitol building fund, state road fund, state
40 road sinking fund, general school fund, school fund, state fund (moneys belonging to counties,
41 districts and municipalities), state interest and sinking funds, state compensation funds, the fund

42 maintained by the Public Service Commission for the investigation and supervision of applications
43 and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt, trap,
44 fish or otherwise hold or capture fish and wildlife resources and money reimbursed and granted by
45 the federal government for fish and wildlife conservation; and

46 (10) All moneys collected or received under any act of the Legislature providing that funds
47 collected or received under the act shall be used for specific purposes: Provided, That
48 notwithstanding any provision of this code to the contrary, any unencumbered special revenue
49 account that has had no activity either receiving or disbursing funds shall have 25 percent of those
50 funds forfeited and reverted to the General Revenue Fund: *Provided, however, That any*
51 unencumbered special revenue account that has had no activity either receiving or disbursing
52 funds for over one year, but less than two years, shall have 50 percent of those funds forfeited and
53 reverted to the General Revenue Fund: *Provided further, That any unencumbered special revenue*
54 account that has had no activity either receiving or disbursing funds for over two years shall have
55 100 percent of those funds forfeited and reverted to the General Revenue Fund. Officials and
56 employees of the state authorized by statute to accept moneys on behalf of the State of West
57 Virginia that are designated for special revenue accounts may not disburse funds from these
58 special revenue accounts pending the forfeiture and repayment to the General Revenue Fund
59 required by this subdivision.

60 (c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection (b)
61 of this section, shall be paid into the State Treasury in the same manner as collections not
62 excepted and recorded in separate accounts for receipt and expenditure for the purposes for
63 which the moneys are authorized to be collected by law: *Provided, That* amounts collected
64 pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from time
65 to time, to exceed funds needed for the purposes set forth in general law may be transferred to
66 other accounts or funds and redesignated for other purposes by appropriation of the Legislature.
67 The gross amount collected in all cases shall be paid into the State Treasury. Commissions, costs,

68 and expenses, including, without limitation, amounts charged for use of bank, charge, credit or
69 debit cards, incurred in the collection process shall be paid from the gross amount collected in the
70 same manner as other payments are made from the State Treasury.

71 (d) The State Treasurer may establish an imprest fund or funds in the office of any state
72 spending unit upon receipt of a proper application. To implement this authority, the State Treasurer
73 shall propose rules for legislative approval in accordance with ~~the provisions of §29A-3-1 et seq.~~ of
74 this code. The State Treasurer or his or her designee shall annually audit all imprest funds and
75 prepare a list of the funds showing the location and amount as of fiscal year end, retaining the list
76 as a permanent record of the State Treasurer until the Legislative Auditor has completed an audit
77 of the imprest funds of all agencies and institutions involved.

78 (e) The State Treasurer may develop and implement a centralized receipts processing
79 center. The State Treasurer may request the transfer of equipment and personnel from
80 appropriate state agencies to the centralized receipts processing center in order to implement the
81 provisions of this section: *Provided*, That the Governor or appropriate Constitutional officer ~~has~~
82 ~~authority to~~ authorize the transfer of equipment or personnel to the centralized receipts processing
83 center from the respective agency.

NOTE: The purpose of this bill is to provide for the forfeiture of unencumbered funds in special revenue accounts and repayment of certain percentages of the special revenue accounts to the General Revenue Fund if these accounts have been inactive for designated periods. The bill also prohibits expenditures from these accounts pending the forfeiture of the funds.

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