

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5177**

By Delegates Mallow, Jennings, DeVault, Heckert,

Summers, and Adkins

[Introduced January 25, 2024; Referred to the

Committee on Government Organization]

1 A BILL to amend and reenact §12-4-14b of the Code of West Virginia, 1931, as amended, relating  
2 audits of volunteer fire departments; and requiring the Auditor, the Legislative Auditor, and  
3 the State Fire Marshal to coordinate audits of volunteer or part-volunteer fire companies or  
4 departments to avoid duplicating information.

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

#### **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-volunteer  
10 fire company or department has deposited or invested money from formula distributions and  
11 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 the  
35 following conditions:

36           (1) Failure to file, in a timely manner, copies of bank statements and check images with the  
37 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 of  
41 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 by  
48 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 to  
50 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, §33-3-  
59 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 responsibilities  
62 of a volunteer or part-volunteer fire company or department imposed under §12-4-14 of this code if  
63 that company or department has received funds from any state grant program other than from the  
64 Fire Service Equipment and Training Fund. If the Legislative Auditor is notified by a grantor that a  
65 volunteer or part-volunteer fire company or department has failed to file a report or a sworn  
66 statement of expenditures for a state grant it received, the Legislative Auditor shall notify the State

67 Treasurer who shall withhold further distributions to the company or department in the manner  
68 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 one  
75 year from the date of deposit into this special revenue account, then the Treasurer shall release  
76 and distribute the withheld amounts to the company or department, except that any interest that  
77 has accrued thereon shall be credited to the general revenue of the state. If, after one year from  
78 payment of the amount withheld into the special revenue account, the Legislative Auditor informs  
79 the State Treasurer of continued noncooperation by the company or department, the delinquent  
80 company or department forfeits the amounts withheld and the State Treasurer shall pay the  
81 amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of this code.

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

93 to substantiate an authorized purpose for the expenditure, the Legislative Auditor shall notify the  
94 Treasurer of the amount of misapplied money and the Treasurer shall deduct that amount from  
95 future distributions to that company or department until the full amount of unauthorized  
96 expenditure is offset.

1 (k) Effective July 1, 2024, the Auditor, the Legislative Auditor, and the State Fire Marshal  
2 shall coordinate audits of volunteer or part-volunteer fire companies or departments in order to  
3 limit overlapping audits, as far as practical, that produce the same information required by law.

NOTE: The purpose of this bill is to require the Auditor, the Legislative Auditor, and the State Fire Marshal to coordinate audits of volunteer or part-volunteer fire companies or departments to avoid duplicating information.

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