

H. B. 3181

(By Delegates Boggs, Cann, Barill, Mahan and Guthrie)
[Introduced February 18, 2011; referred to the
Committee on Government Organization then Finance.]

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §12-3-5a, relating to
creating "The Prompt Pay Act of 2011;" requiring invoices to
state agencies be paid within sixty days; providing exceptions
to three specific agencies whose invoices must be processed
within fifteen days; requiring interest be paid on invoices
not paid within the prescribed time period; providing
exceptions for contested invoices; providing that no agency
owes another agency interest on an unpaid invoice; and
defining the term "state agency."

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, by adding
thereto a new section, designated §12-3-5a, to read as follows:

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

1 **§12-3-5A. Payment of legitimate uncontested invoices; interest on**
2 **late payments.**

3 (a) Any properly registered and qualified vendor who supplies
4 services or commodities to any state agency shall be entitled to
5 prompt payment upon presentation to that agency of a legitimate
6 uncontested invoice.

7 (b) For purchases of services or commodities made on or after
8 July 1, 2011, a state check shall be issued in payment thereof
9 within sixty days after a legitimate uncontested invoice is
10 received by the state agency receiving the services or commodities.
11 Any state check issued after sixty days shall include interest at
12 the current rate, as determined by the State Tax Commissioner under
13 the provisions of section seventeen-a, article ten, chapter eleven
14 of this code. That interest shall be calculated for the sixty-first
15 day after such invoice was received by the state agency until the
16 date the payment is made.

17 (c) For purposes of this section, an invoice shall be deemed
18 to be received by a state agency on the date the invoice is marked
19 as received by the agency, or three days after the date of the
20 postmark made by the United States Postal Service as evidenced on
21 the envelope in which the invoice is mailed, whichever is earlier.
22 However, in the event an invoice is received by a state agency
23 prior to the date on which the commodities or services covered by
24 the invoice were actually delivered and accepted or fully performed

1 and accepted, the invoice shall be deemed to be received on the
2 date on which the commodities or services covered by the invoice
3 were actually delivered and accepted or fully performed and
4 accepted.

5 (d) The State Auditor shall deduct the amount of any interest
6 due for late payment of an invoice from any appropriate account of
7 the state agency responsible for the late payment upon request from
8 the vendor and appropriate documentation therewith. If two or more
9 state agencies are responsible for the late payment, the State
10 Auditor shall deduct the amount of interest due on a pro rata
11 basis.

12 (e) The state agency initially receiving a legitimate
13 uncontested invoice shall process such invoice for payment within
14 ten days from its receipt: *Provided*, That invoices to the
15 Department of Health and Human Resources, the Division of Highways
16 and the Public Employees Insurance Agency shall be processed within
17 fifteen days of their receipt. No state agency shall be liable for
18 payment of interest owed by another state agency under this
19 section.

20 (f) Any other state agency charged by law with processing a
21 state agency's requisition for payment of a legitimate uncontested
22 invoice shall either process the claim or reject it for good cause
23 within ten days after such state agency receives it. Failure to
24 comply with the requirements of this subsection renders that state

1 agency liable for payment of the interest mandated by this section
2 when there is a failure to promptly pay a legitimate uncontested
3 invoice: *Provided*, That no such state agency shall be liable for
4 payment of interest owed by another state agency under this
5 section.

6 (g) For purposes of this section, the phrase "state agency"
7 means any agency, department, board, office, bureau, commission,
8 authority or any other entity of state government.

9 (h) This section applies to, without exception, to any and all
10 payments made between the repeal of "The Prompt Pay Act of 1990,"
11 section fifty-four, article three, chapter five-a of this code on
12 March 13, 2010, and the effective date of this section.

13 (i) This section may be cited as "The Prompt Pay Act of 2011."

NOTE: The purpose of this bill is to create "The Prompt Pay Act of 2011." The bill requires invoices to state agencies be paid within sixty days and provides exceptions for three specific agencies whose invoices must be processed within fifteen days. The bill requires interest be paid on invoices not paid within the prescribed time period. The bill provides exceptions for contested invoices. The bill provides that no agency owes another agency interest on an unpaid invoice. The bill also defines the term "state agency."

This section is new; therefore, it has been completely underscored.