

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 430**

4 (By Senators Edgell, Green, Kirkendoll, Laird, McCabe, Snyder,
5 Tucker, Unger, Yost and Stollings)

6 _____
7 [Originating in the Committee on Government Organization;
8 reported February 6, 2014.]
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12 A BILL to amend and reenact §12-1-12b of the Code of West
13 Virginia, 1931, as amended; to amend and reenact §12-2-2 of said
14 code; and to amend and reenact §12-3-1 of said code, all relating
15 to the State Treasurer's Office; changing Cash Management
16 Improvement Act reports from quarterly to annually; establishing
17 standards and reviews for receipting of moneys for all spending
18 units except the Department of Revenue; assisting spending units
19 in developing and improving their internal controls for
20 receipting moneys; authorizing the Treasurer to review internal
21 control procedures for receipting moneys and to make revisions or
22 suggestions; reviewing internal controls by auditors when
23 auditing receipted moneys and ensuring copies of audits are
24 submitted to the State Treasurer and Legislative Auditor;
25 ensuring confidential information in internal control procedures
26 is redacted before release; updating language that deposit

1 information no longer needs to be manually forwarded since the
2 Enterprise Resource System will automatically perform functions;
3 adding the Board of Treasury Investments to the entities managing
4 investments; clarifying when state checks are presumed stale and
5 the process for dealing with stale checks; and requiring spending
6 units to monitor checks issued on their behalf and to ensure
7 stale checks with federal funds are properly reported.

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

9 That §12-1-12b of the Code of West Virginia, 1931, as amended, be
10 amended and reenacted; that §12-2-2 of said code be amended and
11 reenacted; and that §12-3-1 of said code be amended and
12 reenacted, all to read as follows:

13 **ARTICLE 1. STATE DEPOSITORIES.**

14 **§12-1-12b. Cash Management Improvement Act; administration;**
15 **reports.**

16 ~~(a) The Cash Management Improvement Act of 1990, Public Law~~
17 ~~101-453, October 24, 1990, 31 U.S.C. Section 6501 et. seq. (CMIA)~~
18 ~~and regulations, as amended, (a) "CMIA" means the Cash Management~~
19 ~~Improvement Act of 1990, Public Law 101-453, October 24, 1990, 31~~
20 ~~U. S. C. Section 6501 et. seq. and regulations, as amended.~~

21 (b) The CMIA establishes requirements and techniques, including
22 calculations, for the receipt and disbursement of federal funds
23 by states. The authorized official and representative of the
24 State of West Virginia for the CMIA is the State Treasurer.

25 ~~(b)~~ (c) In administering the CMIA, the State Treasurer is

1 authorized to do all things reasonably necessary, including,
2 without limitation, entering into agreements with, negotiating
3 settlements with, refunding any interest due and satisfying any
4 liability to the United States Treasury in accordance with the
5 CMIA.

6 ~~(c)~~ (d) Periodically, the State Treasurer shall transfer to the
7 Federal Cash Management Fund, which is ~~hereby authorized and~~
8 continued, earnings on the State General Revenue Fund in an
9 amount the State Treasurer estimates is needed to make refunds in
10 accordance with the CMIA. After each annual settlement with the
11 United States Treasury, the State Treasurer shall transfer to the
12 State General Revenue Fund any moneys remaining in the Federal
13 Cash Management Interest Fund for the period ~~just~~ most recently
14 settled.

15 ~~(d)~~ (e) The State Treasurer shall also transfer periodically to
16 the Federal Cash Management-Administration Fund which is ~~hereby~~
17 ~~authorized and~~ continued, earnings on the State General Revenue
18 Fund in an amount the Treasurer determines is needed to pay for
19 the costs of administering the CMIA. The State Treasurer may pay
20 the costs he or she incurs in administering the CMIA from the
21 Federal Cash Management-Administration Fund.

22 ~~(e)~~ (f) All state spending units shall cooperate fully with the
23 State Treasurer in accumulating all the necessary data elements
24 to fully comply with the CMIA.

25 ~~(f)~~ (g) The State Treasurer shall send ~~quarterly~~ annual reports
26 on the activities involving the CMIA to the Governor, State

1 Auditor, Secretary of Revenue and Joint Committee on Government
2 and Finance.

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

5 **§12-2-2. Itemized record of moneys received for deposit;**
6 **regulations governing deposits; credit to state fund; exceptions.**

7 (a) All officials and employees of the state authorized by
8 statute to accept moneys on behalf of the State of West Virginia
9 shall keep a daily itemized record of moneys received for deposit
10 in the State Treasury and shall deposit within one business day
11 with the State Treasurer all moneys received or collected by them
12 for or on behalf of the state for any purpose ~~whatsoever~~. The
13 State Treasurer may grant an exception to the one business day
14 rule when circumstances make compliance difficult or expensive.
15 ~~The State Treasurer may review the procedures and methods used by~~
16 ~~officials and employees authorized to accept moneys due the state~~
17 ~~and change the procedures and methods if he or she determines it~~
18 ~~is in the best interest of the state: *Provided*, That the State~~
19 ~~Treasurer may not review or amend the procedures by which the~~
20 ~~Department of Revenue accepts moneys due the state.~~

21 (b) (1) With the exception of the Department of Revenue and its
22 spending units:

23 (i) The State Treasurer shall establish standards for internal
24 controls for spending units receipting moneys, assist spending
25 units in developing and improving their internal control

1 procedures for receipting moneys and providing training;
2 (ii) State spending units accepting moneys shall establish and at
3 least annually review internal control procedures for receipting
4 moneys that safeguard assets, minimize fraud, waste and abuse and
5 comply with applicable laws, rules and regulations;
6 (iii) At the request of the State Treasurer, state spending units
7 shall submit internal control procedures and any revisions to the
8 internal control procedures for review to the State Treasurer,
9 who may make revisions or suggestions to the internal control
10 procedures if he or she believes the procedures do not provide
11 reasonable protection for moneys collected. A spending unit shall
12 adopt any revisions made by the State Treasurer; and
13 (iv) The State Treasurer may audit the receipting of money by a
14 spending unit. A copy of any audit performed by the State
15 Treasurer shall be submitted to the Legislative Auditor. When any
16 audit of a spending unit involving receipting moneys is conducted
17 by an internal auditor or an auditing firm, the audit shall
18 include an evaluation of and report on the adequacy of internal
19 control procedures for receipting moneys. The spending unit shall
20 send a copy of the audit to the State Treasurer and to the
21 Legislative Auditor within thirty days of receipt of the audit by
22 the spending unit.
23 (2) Any confidential information in internal control procedures
24 shall be redacted before release of the internal control
25 procedures in accordance with a request pursuant to article one,
26 chapter twenty-nine-b of this code.

1 (c) The State Treasurer shall propose rules for legislative
2 approval, in accordance with the provisions of article three,
3 chapter twenty-nine-a of this code governing the procedure for
4 deposits. The official or employee making deposits with the State
5 Treasurer shall prepare deposit lists in the manner and upon
6 report forms prescribed by the State Treasurer in the state
7 accounting system. The State Treasurer shall review the deposits
8 in the state accounting system. ~~and forward the information to~~
9 ~~the State Auditor and to the Secretary of Revenue.~~

10 ~~(b)~~ (d) All moneys received by the state from appropriations made
11 by the Congress of the United States shall be recorded in special
12 fund accounts, in the State Treasury apart from the general
13 revenues of the state, and shall be expended in accordance with
14 the provisions of article eleven, chapter four of this code. All
15 moneys, other than federal funds, defined in section two, article
16 eleven, chapter four of this code, shall be credited to the state
17 fund and treated by the State Auditor and State Treasurer as part
18 of the general revenue of the state except the following funds
19 which shall be recorded in separate accounts:

20 (1) All funds excluded by the provisions of section six, article
21 eleven, chapter four of this code;

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

24 (3) All endowment funds, bequests, donations, executive emergency
25 funds and death and disability funds;

26 (4) All fees and funds collected at state educational

1 institutions for student activities;

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

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

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

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

11 (9) All moneys collected and belonging to the Capitol Building
12 Fund; State Road Fund; State Road Sinking Fund; General School
13 Fund; School Fund; state fund moneys belonging to counties,
14 districts and municipalities; state interest and sinking funds;
15 state compensation funds; the fund maintained by the Public
16 Service Commission for the investigation and supervision of
17 applications and all fees, money, interest or funds arising from
18 the sales of all permits and licenses to hunt, trap, fish or
19 otherwise hold or capture fish and wildlife resources and money
20 reimbursed and granted by the federal government for fish and
21 wildlife conservation; and

22 (10) All moneys collected or received under any act of the
23 Legislature providing that funds collected or received under the
24 act shall be used for specific purposes.

25 ~~(e)~~ (e) All moneys, except as provided in subdivisions (1)
26 through (9), inclusive, subsection (b) of this section, shall be

1 paid into the State Treasury in the same manner as collections
2 not excepted and recorded in separate accounts for receipt and
3 expenditure for the purposes for which the moneys are authorized
4 to be collected by law: *Provided*, That amounts collected pursuant
5 to subdivisions (1) through (10), subsection (b) of this section,
6 which are found, from time to time, to exceed funds needed for
7 the purposes set forth in general law may be transferred to other
8 accounts or funds and redesignated for other purposes by
9 appropriation of the Legislature. The gross amount collected in
10 all cases shall be paid into the State Treasury. Commissions,
11 costs and expenses, including, without limitation, amounts
12 charged for use of bank, charge, credit or debit cards, incurred
13 in the collection process shall be paid from the gross amount
14 collected in the same manner as other payments are made from the
15 State Treasury.

16 ~~(d)~~ (f) The State Treasurer may establish an imprest fund or
17 funds in the office of any state spending unit upon receipt of a
18 proper application. To implement this authority, the State
19 Treasurer shall propose rules for legislative approval in
20 accordance with the provisions of article three, chapter
21 twenty-nine-a of this code. The State Treasurer or his or her
22 designee shall annually audit all imprest funds and prepare a
23 list of the funds showing the location and amount as of the end
24 of fiscal year ~~end~~, retaining the list as a permanent record of
25 the State Treasurer until the Legislative Auditor has completed
26 an audit of the imprest funds of all agencies and institutions

1 effectuating the investment policies of the State Treasurer and
2 the ~~Investment Management Board~~ West Virginia Investment
3 Management Board and the West Virginia Board of Treasury
4 Investments. On the presentation of the warrant to the State
5 Treasurer, ~~the treasurer~~ he or she shall ascertain whether there
6 are sufficient funds in the treasury to pay that warrant, and if
7 he or she finds it to be so, he or she shall in that case, but
8 not otherwise, endorse his or her check upon the warrant,
9 directed to some depository, which check shall be payable to the
10 order of the person who is to receive the money ~~therein~~
11 specified.

12 (b) If a check is not presented for payment within six months
13 after it is drawn, it is the duty of the State Treasurer to
14 credit it to the depository on which it was drawn, to credit the
15 Treasurer's Stale Check Fund, which is hereby created in the
16 State Treasury, and immediately notify the State Auditor to make
17 corresponding entries on the State Auditor's books. If the State
18 Treasurer determines any funds deposited in the stale check
19 account are federal funds, the State Treasurer shall notify the
20 spending unit authorizing the payment. Within six months
21 following issuance of the notice, the spending unit shall inform
22 the State Treasurer of the amount of federal funds included in
23 the check, the account from which the federal funds were
24 disbursed, and the current fiscal year account to which the
25 federal funds are to be transferred. After receiving the
26 information, the State Treasurer shall transfer the amount of

1 federal funds specified as a reimbursement to the current fiscal
2 year account specified to receive federal funds by the spending
3 unit. For a period of up to six months, the State Treasurer shall
4 endeavor to pay the money in the stale check account to the
5 payee. The State Treasurer shall credit the money that has been
6 in the stale check account for six months, or for a shorter
7 period as determined by the State Treasurer, to the unclaimed
8 property fund pursuant to the provisions of article eight,
9 chapter thirty-six of this code, and shall immediately notify the
10 State Auditor to make corresponding entries on ~~the Auditor's~~ his
11 or her books.

12 (c) (1) No state depository may pay a state check unless it is
13 presented within six months after it is drawn and every check
14 shall bear upon its face the words "Void, unless presented for
15 payment within six months." If a state check is not presented for
16 payment within six months after it is drawn, the state check is
17 presumed to be a stale check and shall be reported as unclaimed
18 property in accordance with article eight, chapter thirty-six of
19 this code.

20 (2) All state spending units shall regularly monitor checks
21 issued on their behalf in accordance with procedures established
22 by the State Treasurer. Factors to be reviewed and reported to
23 the State Treasurer include, but are not limited to, whether any
24 outstanding check contains federal funds, whether good-faith
25 efforts have been made to locate the payees and whether the
26 outstanding check still constitutes a valid obligation owed to

1 the payee. If an outstanding state check contains any federal
2 funds, the state spending unit shall advise the State Treasurer
3 of the amount of federal funds included in the check, the account
4 from which the federal funds were disbursed and the current
5 fiscal year account to which the federal funds are to be
6 transferred. If the check remains outstanding and becomes a stale
7 check, the State Treasurer shall credit the amount of the check
8 to the state depository on which the check was issued, notify the
9 State Auditor to make corresponding entries on his or her books
10 and transfer the amount of federal funds reported as a
11 reimbursement to the current fiscal year account specified to
12 receive the federal funds by the spending unit. The State
13 Treasurer shall transfer any funds from stale checks that are not
14 federal funds into the Unclaimed Property Fund.

15 (d) Any information or records maintained by the State Treasurer
16 concerning any check not presented for payment within six months
17 of the date of issuance is confidential and exempt from
18 disclosure under the provisions of article one, chapter
19 twenty-nine-b of this code, and is disclosable only to the state
20 spending unit authorizing the check, or to the payee, his or her
21 personal representative, next of kin or attorney at law.

22 (e) All claims required by law to be allowed by any court, and
23 payable out of the State Treasury, shall have the seal of the
24 court allowing or authorizing the payment of the claim affixed by
25 the clerk of the court to his or her certificate of its
26 allowance. No claim may be audited and paid by the State Auditor

1 unless the seal of the court is thereto attached as aforesaid. No
2 tax or fee may be charged by the clerk for affixing his or her
3 seal to the certificate, referred to in this section. The State
4 Treasurer shall propose rules in accordance with the provisions
5 of article three, chapter twenty-nine-a of this code governing
6 the procedure for such payments from the State Treasury.

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