

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2993

BY DELEGATES HOWELL, STORCH, HAMRICK, STEELE,

FOSTER AND HARDY

[Introduced March 09, 2021; Referred to the

Committee on Finance]

1 A BILL to amend §12-2-2 of the Code of West Virginia, 1931, as amended, relating to the ability
2 of the West Virginia State Treasurer to charge a monthly penalty amount to spending units
3 receiving a finding by the Legislative Auditor or Performance Evaluation and Research
4 Division of a lack of internal controls for the collection of state 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
4 all 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. The State Treasurer shall propose rules for legislative
11 approval, in accordance with the provisions of ~~article three, chapter twenty-nine-a of this code~~
12 §29A-3-1 et seq. governing the procedure for deposits. The official or employee making deposits
13 with the state Treasurer shall prepare deposit lists in the manner and upon report forms prescribed
14 by the state Treasurer in the state accounting system. The State Treasurer shall review the
15 deposits in the state accounting system and forward the information to the State Auditor and to
16 the Secretary of Revenue.

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

24 (1) All funds excluded by the provisions of ~~section six, article eleven, chapter four of this~~
25 ~~code~~ §4-11-6 of this code;

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

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

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

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

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

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

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

38 (9) All moneys collected and belonging to the capitol building fund, state road fund, state
39 road sinking fund, general school fund, school fund, state fund (moneys belonging to counties,
40 districts and municipalities), state interest and sinking funds, state compensation funds, the fund
41 maintained by the Public Service Commission for the investigation and supervision of applications
42 and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt,

43 trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and
44 granted by the federal government for fish and wildlife conservation; and

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

47 (c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection
48 (b) of this section, shall be paid into the State Treasury in the same manner as collections not
49 excepted and recorded in separate accounts for receipt and expenditure for the purposes for
50 which the moneys are authorized to be collected by law: *Provided*, That amounts collected
51 pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from
52 time to time, to exceed funds needed for the purposes set forth in general law may be transferred
53 to other accounts or funds and redesignated for other purposes by appropriation of the
54 Legislature. The gross amount collected in all cases shall be paid into the State Treasury.
55 Commissions, costs and expenses, including, without limitation, amounts charged for use of bank,
56 charge, credit or debit cards, incurred in the collection process shall be paid from the gross
57 amount collected in the same manner as other payments are made from the State Treasury.

58 (d) The State Treasurer may establish an imprest fund or funds in the office of any state
59 spending unit upon receipt of a proper application. To implement this authority, the State
60 Treasurer shall propose rules for legislative approval in accordance with the provisions of ~~article~~
61 ~~three, chapter twenty-nine-a of this code~~ §29A-3-1 et seq of this code. The State Treasurer or his
62 or her designee shall annually audit all imprest funds and prepare a list of the funds showing the
63 location and amount as of fiscal year end, retaining the list as a permanent record of the State
64 Treasurer until the Legislative Auditor has completed an audit of the imprest funds of all agencies
65 and institutions involved.

66 (e) The State Treasurer may develop and implement a centralized receipts processing
67 center. The State Treasurer may request the transfer of equipment and personnel from
68 appropriate state agencies to the centralized receipts processing center in order to implement the

69 provisions of this section: *Provided*, That the Governor or appropriate constitutional officer has
70 authority to authorize the transfer of equipment or personnel to the centralized receipts processing
71 center from the respective agency.

72 (f) The State Treasurer may charge a \$200 monthly penalty fee to any spending unit
73 receiving a finding or recommendation regarding the entity's lack of internal controls for the
74 collection of state funds from the Legislative Auditor and/or Performance Evaluation and
75 Research Division in accordance with Chapter 4 of this Code. The monthly penalty shall be
76 assessed to any such entity receiving this finding or recommendation if the State Treasurer's
77 lockbox service or other state fund collection method available from the State Treasurer is not
78 implemented within six months of the date of the audit report.

NOTE: The purpose of this bill is to allow the State Treasurer to charge a \$200 monthly penalty fee to any spending unit receiving a finding or recommendation regarding the entity's lack of internal controls for the collection of state funds from the Legislative Auditor or the Performance Evaluation and Research Division in accordance with Chapter 4 of this Code if the entity has not implemented the State Treasurer's lockbox service or other state fund collection method available from the State Treasurer.

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