

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 543

FISCAL
NOTE

BY SENATORS ROBERTS, TARR, WOODRUM, AND

BALDWIN

[Introduced February 01, 2022; referred
to the Committee on the Judiciary; and then to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §21A-10-23; relating to authorizing the Commissioner of Workforce West
3 Virginia to create an unemployment compensation insurance fraud unit; establishing
4 training requirements; specifying duties; and granting certain authorities necessary to
5 conduct investigations into alleged unemployment insurance fraud.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. GENERAL PROVISIONS.

§21A-10-23. Creation of Unemployment Compensation Insurance Fraud Unit; purpose; duties; and personnel qualifications.

1 (a) There is established the West Virginia Unemployment Compensation Insurance Fraud
2 Unit within the offices of the commissioner. The commissioner may employ full-time supervisory,
3 legal, and investigative personnel for the unit who shall be qualified by training and experience in
4 the areas of detection, investigation, or prosecution of fraud. The director of the unit is a full-time
5 position and shall be appointed by the commissioner and serve at his or her will and pleasure.
6 The commissioner shall provide office space, equipment, and supplies, and shall employ and train
7 personnel, including legal counsel, investigators, auditors, and clerical staff necessary for the unit
8 to carry out its duties and responsibilities under this article as the commissioner determines is
9 necessary.

10 (b) It is the duty of the unit to:

11 (1) Initiate inquiries and conduct investigations when the unit has cause to believe
12 violations of any provisions of West Virginia Code Chapter 21A, West Virginia Unemployment
13 Compensation Insurance Law;

14 (2) Review reports or complaints of alleged fraud related to the business of unemployment
15 compensation insurance activities from federal, state, and local law-enforcement and regulatory
16 agencies, persons engaged in the business of insurance and the general public to determine
17 whether the reports require further investigation;

18 (3) Conduct independent examinations of alleged fraudulent activity related to the
19 business of unemployment compensation insurance and undertake independent studies to
20 determine the extent of fraudulent insurance acts; and

21 (4) Perform any other duties related to the purposes of this article assigned to it by the
22 commissioner.

23 (c) The commissioner, or the commissioner's designee, may issue investigatory
24 subpoenas and/or subpoenas duces tecum for witnesses and documents relevant to an
25 investigation, including information concerning the existence, description, nature, custody,
26 condition, and location of any book, record, documents, or other tangible items and the identity
27 and location of persons having knowledge of relevant facts or any matter reasonably calculated
28 to lead to the discovery of admissible evidence.

29 The unit may:

30 (1) Inspect, copy, or collect records and evidence;

31 (2) Administer oaths and affirmations;

32 (3) Share records and evidence with federal, state, or local law-enforcement or regulatory
33 agencies, and enter into interagency agreements. For purposes of carrying out investigations
34 under this article, the unit shall be considered a criminal justice agency under all federal and state
35 laws and regulations and as such shall have access to any information that is available to other
36 criminal justice agencies concerning violations of the unemployment compensation insurance
37 laws of West Virginia or related criminal laws;

38 (4) Make criminal referrals to the county prosecutors;

39 (5) Conduct investigations outside this state. If the information the unit seeks to obtain is
40 located outside this state, the person from whom the information is sought may make the
41 information available to the unit to examine at the place where the information is located. The unit
42 may designate representatives, including officials of the state in which the matter is located, to
43 inspect the information on behalf of the unit, and may respond to similar requests from officials of

44 other states;

45 (d) Specific personnel of the unit designated by the commissioner may operate vehicles
46 owned or leased for the state displaying Class A registration plates;

47 (e) Notwithstanding any provision of this code to the contrary, specific personnel of the
48 unit designated by the commissioner may carry firearms in the course of their official duties after
49 meeting specialized qualifications established by the Governor's Committee on Crime,
50 Delinquency, and Correction, which shall include the successful completion of handgun training
51 provided to law-enforcement officers by the West Virginia State Police: *Provided*, That nothing in
52 this subsection shall be construed to include any person designated by the commissioner as a
53 law-enforcement officer as that term is defined by the provisions of §30-29-1 of this code; and

54 (f) The unit is not subject to the provisions of §6-9A-1 *et seq.* of this code and the
55 investigations conducted by the unit and the materials placed in the files of the unit as a result of
56 any such investigation are exempt from public disclosure under the provisions of §29B-1-1 *et seq.*
57 of this code.

NOTE: The purpose of this bill is to authorize the commissioner of Workforce West Virginia to create an unemployment compensation insurance fraud unit. The bill establishes training requirements; specifies duties; and grants certain authorities necessary to conduct investigations into alleged unemployment insurance fraud.

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