

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5064

**FISCAL
NOTE**

By Delegates Green, Hanshaw (Mr. Speaker),
Hornby, Jeffries, Hott, Phillips, Browning, Linville,
Gearheart, and Hite

[Introduced February 03, 2026; referred to the
Committee on Government Organization]

1 A BILL to reenact and amend §6-9D-2, §6-9D-9, §6-9D-11, and §8-35-4 of the Code of West
2 Virginia, 1931, as amended; and to amend the code by adding three new sections,
3 designated §6-9D-12a, §6-9D-12b, and §8-35-7, relating to municipalities that have failed
4 to complete required financial audits for multiple years; modifying definitions; clarifying
5 fiscal emergency conditions; authorizing State Auditor to evaluate a municipality's
6 likelihood of financial recovery; allowing for the transition to dissolution; providing notice to
7 municipalities; clarifying duties of receiver upon dissolution; and confirming the effect of
8 municipal dissolution on utilities governed by the Public Service Commission.

Be it enacted by the Legislature of West Virginia:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 9D. LOCAL FISCAL EMERGENCIES.

§6-9D-2.

Definitions.

1 As used in this article:

2 "Chronic audit noncompliance" means the failure of a municipality to complete and submit
3 required annual financial statements or audits for three consecutive years.

4 "Committee" means a financial planning and supervision group created pursuant to this
5 article.

6 "Debt obligations" means bonds, notes, certificates of indebtedness, bond anticipation
7 notes, current revenue notes, local government fund notes, leases or other obligations issued or
8 incurred in borrowing money, or to renew, refund, fund or refinance, or issued in exchange for,
9 such obligations, and any interest coupons pertaining thereto.

10 "Default" means failure to pay the principal of or the interest on a debt obligation, or failure
11 to make other payment to be made to the holder or owner of a debt obligation, in the full amount
12 and at the time provided for in the contractual commitment with respect thereto, unless the time for
13 such payment has been extended by the owner or holder of the debt obligation without penalty or

14 premium and without the effect of subjecting the local government to the initiation of remedies
15 pertaining to such debt obligation or other debt obligations.

16 "Deficit fund" means the general fund or any other fund of a local government that, as at
17 the time indicated, has a deficit balance or a balance that is less than the amount required to be in
18 such fund pursuant to law or pursuant to contractual requirements, demonstrating that over a
19 period of time expenditures charged or chargeable to the fund have exceeded moneys credited to
20 the fund, or that moneys credited to the fund have not been in the amounts required by law or
21 contractual requirements.

22 "Effective financial accounting and reporting system" means an accounting and reporting
23 system as prescribed by the West Virginia State Auditor's Office.

24 "Employee benefits" means expenditures for goods and services furnished to local
25 government officers or employees by the local government, including, but not limited to, such
26 benefits as food, temporary housing and clothing, and the provision of pension, retirement,
27 disability, hospitalization, health care, insurance or other benefits to employees requiring the
28 advance payment of money other than directly to employees or other beneficiaries, or the deposit
29 or reservation of money for such purpose.

30 "Estimated revenues" means the aggregate estimates of revenue receipts in the budget of
31 the general fund of a local government and other funds as estimated and supplemented, modified,
32 or amended by the local government, as approved by the West Virginia State Auditor's Office or
33 other regulatory agency.

34 "Financial recovery plan" means the financial plan approved by the committee in
35 accordance with §6-9D-6 of this code, as it may from time to time be amended in accordance with
36 this article.

37 "Fiscal emergency" means the existence of fiscal emergency conditions as set forth in this
38 article.

"Fiscal emergency period" means the period of time commencing on the date when the determination of a fiscal emergency is made by the State Auditor or a designee and ending when the determination of termination is made and certified.

"Fiscal watch" means the existence of fiscal watch conditions as provided in this article.

"General fund" means the fund used to account for and report the primary operating activities of the local government.

"General fund budget" means the estimates of revenue and expenditure as a plan of financial operation of the general fund during the applicable fiscal year as approved by the West Virginia State Auditor's Office.

"Local government" means any unit of local government within the state, including a county, municipality, and any other authority, board, commission, district, office, public authority, public corporation, or other instrumentality of a county, municipality, or any combination of two or more local governments.

"Other funds" means funds other than the general fund, including, but not limited to, special revenue funds, capital project funds, debt service funds, permanent funds, enterprise funds, internal service funds, pension trust funds, custodial funds, investment trust funds, and private purpose trust funds.

"Payroll" means compensation due and payable to employees of local government other than employee benefits.

§6-9D-9. Fiscal emergency conditions.

(a) The conditions constituting a fiscal emergency of a local government may include, but are not limited to:

(1) The existence, of a default on any debt obligation for more than 30 days.

(2) The failure to make payment of all payroll to employees of the local government in the amounts and at the times required by law, ordinances, resolutions, or agreements.

(3) The failure to make payment of all employee benefits of the local government in the

amounts and at the times required by law, ordinances, resolutions, or agreements.

(4) The existence of a condition in which accounts were due and payable from the general fund and that either had been due and payable for at least 30 days or to which a penalty has been added for failure to pay, including, but not limited to, final judgments, employee benefits payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon. Accounts due and payable do not include any account, or portion of any account, that is being contested in good faith.

(5) The deficit amount within the general fund for the preceding fiscal year exceed the estimated revenues made in the general fund budget of the current fiscal year.

(6) The local government has failed to comply with debt covenants as required by the issuer of any debt with such requirement.

(7) Any such rule, as proposed by the State Auditor or a designee for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, identified as indicators of a financial emergency condition.

(8) Chronic audit noncompliance, as defined in §6-9D-2 of this code, shall constitute prima facie evidence of a fiscal emergency. Upon such determination, the State Auditor shall proceed in the manner as for any other fiscal emergency under this article.

(9) The State Auditor or a designee declares a fiscal emergency pursuant to §6-9D-8 of this code.

(b) Any condition described in subdivisions (4), (5), (6), ~~or (7)~~, or (8) of subsection (a) of this section shall not constitute a fiscal emergency condition if the local government clearly demonstrates to the satisfaction of the State Auditor or a designee that such condition no longer exists prior to the time of the determination.

(c) Neither the time periods nor the amounts used in subsection (a) of this section to determine what constitutes a fiscal emergency condition of a local government for purposes of this article authorize actions otherwise contrary to law or any agreement of the local government.

§6-9D-11. Financial planning and supervision committee; rule-making authority.

(a) Upon the occurrence of a fiscal emergency in any local government, there is established, with respect to that local government, a supervising committee to perform essential governmental functions of the local government to be known as the "financial planning and supervision committee for (name of local government)", which, in that name, may exercise all authority vested in such a committee provided by this article. Furthermore, if a local government in which fiscal watch or fiscal emergency exists has failed to develop a financial recovery plan the "financial planning and supervision committee for (name of local government)" may develop such a plan for the local government.

(b) During the period of supervision, the State Auditor shall evaluate whether the municipality has a reasonable likelihood of fiscal recovery based on revenue capacity, population trends, debt obligations, operational feasibility, and compliance history.

(c) The State Auditor shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, setting forth the following:

(1) Minimum requirements for the composition of the members of said committee;

(2) The rules of governance for such a committee;

(3) Requirements for the detailed financial recovery plan to be submitted by the subject local government;

(4) The powers, duties and functions of the committee;

(5) The payment of expenses and obligations;

(6) The establishment of enhanced financial reporting;

(7) The requirements of the local government operating under the plan;

(8) Recourse for a noncompliant local government;

(9) Limitations for appropriations;

(10) Communications of the committee;

(11) The approval of debt obligations;

26 (12) The issuance of general obligation, special obligation, or revenue bonds and notes in
27 anticipation of bonds; and

28 (13) The continuance and dissolution of the committee.

§6-9D-12a. Determination of nonviability; transition to dissolution.

1 (a) If at any time after a fiscal emergency is declared, the State Auditor determines that a
2 municipality has no reasonable likelihood of achieving fiscal recovery, the Auditor may initiate
3 municipal dissolution proceedings pursuant to article thirty-five, chapter eight of this code. If a
4 municipality fails to achieve fiscal recovery upon completion of the supervision period, initiation of
5 dissolution proceedings shall be mandatory.

6 (b) Prior to dissolution, the State Auditor shall convene a mandatory intergovernmental
7 coordination meeting including the county commission, the local members of the Senate and
8 House of Delegates, designees of the Speaker of the House and President of the Senate, and a
9 designee of the Governor. The purpose of the meeting is coordination of service continuity, asset
10 disposition, and debt resolution and shall not create financial liability for the county absent express
11 agreement.

§6-9D-12b. Notice to municipalities; applicability.

1 (a) The State Auditor shall provide written notice to every municipality in the state of the
2 enactment of this article, including a plain-language explanation of the requirements and
3 consequences of chronic audit noncompliance.

4 (b) The notice shall state that any municipality which, as of the beginning of its fiscal year
5 2027, is three fiscal years or more delinquent in required audits or financial statements shall be
6 subject to the provisions of this article.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 35. DISSOLUTION OF MUNICIPALITIES.

§8-35-4. State Auditor as special receiver.

1 (a) Upon declaration of the forfeiture of the charter or certificate of incorporation, or the
2 certification of the election for voluntary dissolution, or upon an order by the circuit court for
3 involuntary dissolution, as set forth in this article and §6-9D-12a of this code, the State Auditor
4 shall by operation of law, act as special receiver for the dissolved municipality.

5 (b) The State Auditor, acting as special receiver of the dissolved municipality, shall have
6 the power and authority to:

7 (1) Take legal control of assets, including municipal corporate property, moneys, claims,
8 demands and taxes collected or uncollected;

9 (2) Protect assets;

10 (3) File claims on behalf of the dissolved municipality in receivership;

11 (4) Initiate necessary and proper bankruptcy proceedings, including, but not limited to filing
12 a petition in the name of the municipal corporation under Chapter 9 of Title 11 of the United States
13 Code, and to act on the municipality's behalf in such proceeding, to distribute assets to claimants
14 or creditors;

15 (5) Any such actions as the State Auditor may deem necessary and appropriate to wind up
16 the affairs of the municipality;

17 (6) Any excess of amounts required to pay corporate debts shall be maintained in a special
18 fund titled "municipal dissolution account" to be controlled by the State Auditor to offset the costs
19 associated with conducting examinations and legal expenses pursuant to the provisions of this
20 article;

21 (7) A municipality dissolved pursuant to §6-9D-12a of this code shall be deemed dissolved
22 for all purposes of this article.

23 (8) Further powers and duties of the State Auditor acting as a special receiver shall be set
24 out in rules authorized pursuant to the provisions of this article. These shall include, but are not
25 limited to:

26 (A) The manner in which the State Auditor acting as a special receiver may gain access to
27 and control over bank account and public funds;

28 (B) The manner in which the State Auditor acting as a special commissioner signs or
29 records deeds, releases, or contracts;

30 (C) The manner in which the State Auditor acting as a special commissioner transfers or
31 receives title to real or personal property;

32 (D) The manner in which the State Auditor acting as a special commissioner executes
33 legally binding documents on behalf of a dissolved local government.

§8-35-7. Effect of dissolution on utilities.

1 Dissolution of a municipality under this article or §6-9D-12a of this code does not impair or
2 limit the authority of the West Virginia Public Service Commission to regulate, assign, or approve
3 the transfer of water or sewer systems under existing law. Utility systems shall be addressed
4 through applicable Public Service Commission proceedings and are not subject to liquidation
5 absent commission approval.

NOTE: The purpose of this bill relates to municipalities that have failed to complete required financial audits for multiple years; modify definitions; clarify fiscal emergency conditions; authorize State Auditor to evaluate a municipality's likelihood of financial recovery; allow for the transition to dissolution; provide notice to municipalities; clarify duties of receiver upon dissolution; and confirm the effect of municipal dissolution on utilities governed by the Public Service Commission.

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