

SB 456

FILED

2004 APR -6 P 2: 23

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE  
*Regular Session, 2004*

---

**ENROLLED**

*Committee Substitute for*

SENATE BILL NO. 456

(By Senators Bowman and McKenzie )

---

PASSED March 13, 2004

In Effect 90 days from Passage

FILED

2004 APR -6 P 2:23

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 456**

(SENATORS BOWMAN AND MCKENZIE, *original sponsors*)

---

[Passed March 13, 2004; in effect ninety days from passage.]

---

AN ACT to amend and reenact §12-4-14 of the code of West Virginia, 1931, as amended, relating to requiring state agencies administering funds or grants to notify grantees of certain audit reporting requirements; barring grantees not complying with reporting requirements from subsequently receiving funds or grants; and allowing audits to be filed electronically.

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

That §12-4-14 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.**

**§12-4-14. Audits of corporations, associations or other organizations which receive state funds or grants.**

1 (a) Any corporation, association or other organization in  
2 West Virginia that is not a local government as defined in  
3 section one-a, article nine, chapter six of this code and  
4 which receives state funds or grants in the amount of  
5 fifteen thousand dollars or more shall file an audit of the  
6 disbursement of funds with the legislative auditor's office.  
7 The audit shall be filed within two years of the disburse-  
8 ment of funds or grants by the grantor and shall be made  
9 by an independent certified public accountant at the cost  
10 of the grantee and show that the funds or grants were  
11 spent for the purposes intended when the grant was made.  
12 The state agency administering the funds or grants shall  
13 notify the grantee of the reporting requirements set forth  
14 in this section. A grantee failing to file a required audit  
15 within the two-year time period is barred from subse-  
16 quently receiving state funds or grants until the grantee  
17 has filed the audit and is otherwise in compliance with the  
18 provisions of this section.

19 (b) Audits of state funds or grants under fifteen thousand  
20 dollars may be authorized by the joint committee on  
21 government and finance to be conducted by the legislative  
22 auditor's office, at no cost to the grantee: *Provided*, That  
23 volunteer fire departments satisfy the audit requirements  
24 of this section by submitting a sworn statement of annual  
25 expenditures to the legislative auditor's office, along with  
26 a filing fee of seventy-five dollars, on or before the four-  
27 teenth day of February of each year, if the volunteer fire  
28 department elects not to be audited. The sworn statement  
29 of expenditures shall be signed by the chief or director of  
30 the volunteer fire department, and shall be made under  
31 oath and acknowledged before a notary public. An  
32 additional filing fee of twenty-five dollars shall be in-  
33 cluded with the sworn statement of annual expenditures  
34 if the statement is submitted between the fifteenth day of  
35 February and the fifteenth day of March. An additional  
36 filing fee of fifty dollars shall be included with the sworn  
37 statement of annual expenditures if the statement is  
38 submitted between the sixteenth day of March and the

39 fifteenth day of April. If the sworn statement is not  
40 submitted on or before the fifteenth day of April, the  
41 volunteer fire department shall file an audit of the dis-  
42 bursement of funds, made by an independent certified  
43 public accountant, with the legislative auditor's office no  
44 later than the first day of July. The audit shall be made at  
45 the cost of the volunteer fire department. If the audit  
46 made by the independent certified public accountant is not  
47 filed with the legislative auditor by the first day of July,  
48 the legislative auditor shall notify the state treasurer who  
49 shall withhold payment of one thousand dollars from any  
50 amount that would otherwise be distributed to the fire  
51 department under the provisions of sections fourteen-d  
52 and thirty-three, article three, chapter thirty-three of this  
53 code and section sixteen-a, article twelve of said chapter  
54 and pay the amount withheld to the fund from which it  
55 was distributed to be redistributed the following year  
56 pursuant to the applicable provisions of those sections. If  
57 the volunteer fire department does not timely file a sworn  
58 statement of annual expenditures or an audit of the  
59 disbursement of funds, made by an independent certified  
60 public accountant, with the legislative auditor's office for  
61 three consecutive years, the legislative auditor shall notify  
62 the state treasurer who shall withhold payment of any  
63 amount that would otherwise be distributed to the fire  
64 department under the provisions of sections fourteen-d  
65 and thirty-three, article three, chapter thirty-three of this  
66 code and section sixteen-a, article twelve of said chapter  
67 and pay the amount withheld to the fund from which it  
68 was distributed to be redistributed the following year  
69 pursuant to the applicable provisions of those sections.

70 (c) The office of the legislative auditor may assign an  
71 employee or employees to perform audits at the direction  
72 of the legislative auditor of the disbursement of funds or  
73 grants to volunteer fire departments. The volunteer fire  
74 department shall cooperate with the legislative auditor,  
75 the legislative auditor's employees and the state auditor in  
76 performing their duties under this section. If the legisla-

77 tive auditor determines a volunteer fire department is not  
78 cooperating, the legislative auditor shall notify the state  
79 treasurer who shall withhold payment of any amount that  
80 would otherwise be distributed to the fire department  
81 under the provisions of sections fourteen-d and thirty-  
82 three, article three, chapter thirty-three of this code and  
83 section sixteen-a, article twelve of said chapter until the  
84 legislative auditor informs the treasurer that the fire  
85 department has cooperated as required by this section.  
86 The state treasurer shall pay the amount withheld into a  
87 special revenue account hereby created in the state  
88 treasury and designated the "Volunteer Fire Department  
89 Audit Account". If, after one year from payment of the  
90 amount withheld into the special revenue account, the  
91 legislative auditor informs the state treasurer of continued  
92 noncooperation by the fire department, the state treasurer  
93 shall pay the amount withheld to the fund from which it  
94 was distributed to be redistributed the following year  
95 pursuant to the applicable provisions of those sections.

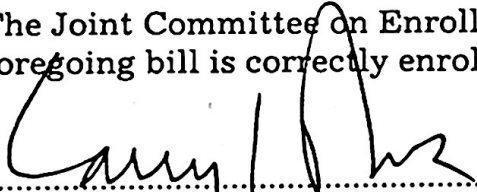
96 (d) Filing fees paid by volunteer fire departments  
97 pursuant to this section shall be paid into a special reve-  
98 nue account created in the state treasury known as the  
99 "Special Legislative Audit Fund". Expenditures from the  
100 fund are authorized to be made by the legislative auditor's  
101 office solely for the purposes of payment of costs associ-  
102 ated with the audits conducted pursuant to this section.  
103 Any person who files a fraudulent sworn statement of  
104 expenditures under this section is guilty of a felony and,  
105 upon conviction thereof, shall be fined not less than one  
106 thousand dollars nor more than five thousand dollars or  
107 imprisoned in a state correctional facility for not less than  
108 one year nor more than five years, or both fined and  
109 imprisoned.

110 (e) Whenever the state auditor performs an audit of a  
111 volunteer fire department for any purpose the auditor  
112 shall also conduct an audit of other state funds received by  
113 the fire department pursuant to sections fourteen-d and

114 thirty-three, article three, chapter thirty-three of this code  
115 and section sixteen-a, article twelve of said chapter. The  
116 auditor shall send a copy of any such audit to the legisla-  
117 tive auditor. The legislative auditor may accept an audit  
118 performed by the auditor in lieu of performing an audit  
119 under this section.

120 (f) Any audit submitted pursuant to the provisions of this  
121 section may be filed electronically in accordance with the  
122 provisions of article one, chapter thirty-nine-a of this  
123 code.

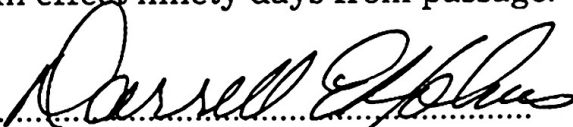
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee


  
.....  
Chairman House Committee

Originated in the Senate.

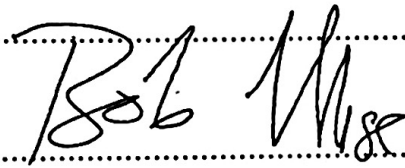
In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 6<sup>th</sup>  
Day of April, 2004.  
  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

DATE 5/22/04

TIME 4:00 pm