

ENROLLED

Senate Bill No. 500

(BY SENATORS PREZIOSO AND SNYDER)

[Passed March 10, 2012; to take effect July 1, 2012.]

AN ACT to amend and reenact §5A-7-4a of the Code of West Virginia, 1931, as amended, relating to monthly statements of spending units; and allowing certain monthly statements to accumulate and be mailed in one statement.

Be it enacted by the Legislature of West Virginia:

That §5A-7-4a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 7. INFORMATION SERVICES AND COMMUNICATIONS DIVISION.

§5A-7-4a. Payment of legitimate uncontested invoices for telecommunications services; procedures and powers of the Information and Communications Division and Secretary of Administration.

1 (a) The Legislature finds that it is in the best interest of
2 the state, its spending units and those vendors supplying
3 telecommunications services to the state and its spending
4 units that any properly registered and qualified vendor
5 supplying telecommunications services to two or more
6 spending units under a shared account is entitled to prompt
7 payment upon presentation of a legitimate uncontested
8 invoice for telecommunications services to the division, as
9 provided in the following subsections.

10 (b) To facilitate the administration and payment of
11 telecommunications services, there is continued in the State
12 Treasury a special revenue account to be known as the
13 Telecommunications Services Payment and Reserve Fund.
14 All moneys transferred from state spending units pursuant to
15 the requirements of this section shall be deposited in the
16 account. Expenditures from the fund shall be made by the
17 director for the exclusive purposes set forth in this section:
18 *Provided*, That no more than \$150,000 or the actual amount
19 collected pursuant to subsection (j) of this section in any
20 fiscal year, whichever is less, may be expended from the fund
21 in any fiscal year to defray the costs of administration of this
22 section.

23 (c) Upon receipt of any telecommunications charges from
24 a properly registered and qualified vendor, the division shall
25 conduct a preliminary review of the charges. If the division
26 determines during this preliminary review that: (1) Any of
27 the charges are not authorized by law or by the contract
28 under which the telecommunications services are provided;
29 (2) no specific spending unit is designated for any charge; or
30 (3) any charge or service is not in accordance with contract
31 pricing, the division shall reject those charges. Within
32 fourteen days of receipt of any telecommunications charge,
33 the director shall notify a vendor of any rejected charges and
34 shall include in the notice a description of the rejected
35 charges, the reasons a charge was rejected and a proposed
36 resolution of the rejected charge. The director and the vendor
37 shall attempt to resolve the matter in good faith. Within
38 ninety days of the receipt of the vendor's invoice or a time
39 period mutually agreed to by the vendor and secretary, the
40 secretary shall make the final decision as to the legitimacy of
41 the rejected amount and determine if payment is warranted.
42 If the final decision of the secretary is to require payment of
43 the rejected amount, the secretary shall cause the division to
44 bill that amount to the appropriate spending unit which shall
45 remit payment of the amount as required in subsection (d) of
46 this section. If the final decision of the secretary is to refuse
47 to pay any amount, the vendor may proceed in accordance

48 with the provisions of article two, chapter fourteen of this
49 code.

50 (d) Following the preliminary review of the charges, the
51 director shall fully apportion all telecommunications charges
52 not rejected during the preliminary review required by
53 subsection (c) of this section among spending units based on
54 the spending unit's service and usage, as determined by the
55 director. The director shall send each spending unit a
56 statement of the spending unit's proportionate share of any
57 telecommunications charges within thirty days of receipt by
58 the division of the invoice detailing the telecommunications
59 charges. Monthly statements for a spending unit of less than
60 \$75 may be accumulated and sent to the spending unit on one
61 statement near the end of the fiscal year. The director shall
62 continue to pay any vendor invoices based upon the require-
63 ments of subsection (b) of this section. The statement is to
64 provide a date of no more than thirty calendar days from the
65 date the division sends the statement by which the spending
66 unit shall submit payment or transfer to the telecommunica-
67 tions services payment and reserve fund all funds necessary
68 to pay for the spending unit's charges in full: *Provided*, That
69 the statement sent in last month of the fiscal year shall
70 provide that the transfer shall be made by July 31. If feasible
71 for the spending unit, the preferable method of payment is by
72 intergovernmental transfer.

73 (e) All spending units shall budget for telecommunica-
74 tions service expenses. Prior to the date provided in each
75 statement sent to a spending unit pursuant to subsection (d)
76 of this section, each spending unit shall pay or transfer the
77 statement amount to the Telecommunications Services
78 Payment and Reserve Fund.

79 (f) If a spending unit fails to pay or transfer funds by the
80 date specified in the statement sent pursuant to subsection
81 (d) of this section, the Secretary of the Department of
82 Administration shall transfer to the Telecommunications
83 Services Payment and Reserve Fund the statement amount
84 plus an additional penalty in the amount of three percent of
85 the statement amount from any funds supporting the admin-

86 istration of that spending unit: *Provided*, That the secretary
87 shall complete all such transfers by July 31 of each fiscal
88 year. Upon exercising a transfer under the authority of this
89 subsection, the director shall provide a notification to the
90 spending unit, including, but not limited to, the date, time,
91 total amount of the transfer, statement amount and penalty
92 amount. If a participating spending unit does not maintain
93 funds in the State Treasury, the secretary may transfer funds
94 by wire from any depository outside the State Treasury. A
95 participating spending unit maintaining funds in deposito-
96 ries outside the State Treasury shall furnish the secretary
97 access to those funds for the exclusive purposes of this
98 section.

99 (g) If a spending unit contests any portion of its state-
100 ment, it shall nonetheless remit payment for the entire
101 statement amount and notify the division in writing within
102 thirty days of statement receipt by the spending unit. The
103 secretary shall consider any contested apportionments of
104 charges and provide a final determination on the apportion-
105 ment of legitimate charges. Corrections or adjustments to
106 apportionments may be effected on future transfer payments:
107 *Provided*, That legitimate vendor charges are to be fully
108 apportioned. If the basis of the contest is vendor error,
109 overcharge, service failure, failure to terminate services as
110 required by the division or other failure of or error in vendor
111 performance, the director shall withhold the contested
112 amount from current or future vendor payments, pending
113 resolution by the secretary, and the director shall bring the
114 contested matter to the attention of the vendor. The director
115 and the vendor shall attempt to resolve the matter in good
116 faith. Within ninety days of the receipt of the vendor's
117 invoice or a time period mutually agreed to by the vendor
118 and secretary, the secretary shall make the final decision as
119 to the legitimacy of the contested amount and determine if
120 payment is warranted. If the final decision of the secretary
121 is to refuse to pay any amount, the vendor may proceed in
122 accordance with the provisions of article two, chapter
123 fourteen of this code.

124 (h) The director shall provide for full payment of legiti-
125 mate, uncontested telecommunications charges within ninety
126 days of receipt of an invoice detailing the telecommunica-
127 tions charges by the division. Payment for the charges shall
128 be made by the director from the Telecommunications
129 Services Payment and Reserve Fund.

130 (i) The director may direct the discontinuance of tele-
131 communications services to any spending unit that fails to
132 comply with the provisions of this section and the vendor
133 supplying telecommunication services shall comply with the
134 written direction of the director on discontinuance of
135 services.

136 (j) To help defray the additional cost of administering
137 this section, the director may assess a proportional fee of up
138 to \$150,000 in aggregate per fiscal year to the participating
139 spending units based on each spending unit's portion of
140 service and usage. This fee is to be included in the statement
141 sent to spending units pursuant to subsection (d) of this
142 section and transferred to the Telecommunications Service
143 Payment and Reserve Fund by the date specified in the
144 statement for the transfer of payment.

145 (k) Notwithstanding any other provision of this code to
146 the contrary, for purposes of this section, an invoice is
147 considered received by the division on the date on which the
148 invoice is marked as received by the division, or three
149 business days after the date of the postmark made by the
150 United States Postal Service as evidenced on the envelope in
151 which the invoice is mailed, whichever is earlier: *Provided,*
152 That if an invoice is received by the division prior to the date
153 on which the telecommunications services covered by the
154 invoice are delivered or fully performed, for purposes of
155 determining the ninety-day time period for payment in
156 subsection (h) of this section, the invoice is considered
157 received on the date on which the telecommunications
158 services covered by the invoice were delivered or fully
159 performed.

160 (l) For purposes of this section, "telecommunications
161 service" means and includes not only telephone service

162 regulated under chapter twenty-four of this code or under
163 federal law, but also may include, at the discretion of the
164 Secretary of Administration, wireless service, voice over
165 Internet protocol service, Internet service and any other
166 service or equipment used for the electronic transmission of
167 voice or data: *Provided*, That the service is provided under a
168 statewide contract.

169 (m) The director may propose rules for legislative
170 approval in accordance with the provisions of article three,
171 chapter twenty-nine-a of this code to effectuate the purposes
172 of this section.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

To take effect July 1, 2012.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the
 Day of, 2012.

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Governor