

H. B. 4319

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[Introduced January 24, 2014; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §12-1-12b of the Code of West Virginia,
1931, as amended; to amend and reenact §12-2-2 of said code;
and to amend and reenact §12-3-1 of said code, all relating to
the State Treasurer's office; changing Cash Management
Improvement Act reports from quarterly to annually;
establishing standards and reviews for receipting of moneys
for all spending units except the Department of Revenue;
assisting spending units in developing and improving their
internal controls for receipting moneys; authorizing the
Treasurer to review internal control procedures for receipting
moneys and to make revisions or suggestions; reviewing
internal controls by auditors when auditing receipted moneys
and ensuring copies of audits are submitted to the State
Treasurer and Legislative Auditor; ensuring confidential
information in internal control procedures is redacted before
release; updating language that deposit information no longer

1 needs to be manually forwarded since the Enterprise Resource
 2 System will automatically perform functions; adding the Board
 3 of Treasury Investments to the entities managing investments;
 4 clarifying when state checks are presumed stale and the
 5 process for dealing with stale checks; and requiring spending
 6 units to monitor checks issued on their behalf and to ensure
 7 stale checks with federal funds are properly reported.

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

9 That §12-1-12b of the Code of West Virginia, 1931, as amended,
 10 be amended and reenacted; that §12-2-2 of said code be amended and
 11 reenacted; and that §12-3-1 of said code be amended and reenacted,
 12 all to read as follows:

13 **ARTICLE 1. STATE DEPOSITORIES.**

14 **§12-1-12b. Cash Management Improvement Act; administration;**
 15 **reports.**

16 ~~(a) The Cash Management Improvement Act of 1990, Public Law~~
 17 ~~101-453, October 24, 1990, 31 U.S.C. Section 6501 et. seq. (CMIA)~~
 18 ~~and regulations, as amended,~~

19 (a) "CMIA" means the Cash Management Improvement Act of 1990,
 20 Public Law 101-453, October 24, 1990, 31 U.S.C. Section 6501 et.
 21 seq. and regulations, as amended.

22 (b) The CMIA establishes requirements and techniques,
 23 including calculations, for the receipt and disbursement of federal

1 funds by states. The authorized official and representative of the
2 State of West Virginia for the CMIA is the State Treasurer.

3 (b) In administering the CMIA, the State Treasurer is
4 authorized to do all things reasonably necessary, including,
5 without limitation, entering into agreements with, negotiating
6 settlements with, refunding any interest due and satisfying any
7 liability to the United States Treasury in accordance with the
8 CMIA.

9 (c) Periodically, the State Treasurer shall transfer to the
10 "Federal Cash Management Fund," which is ~~hereby authorized and~~
11 continued, earnings on the state General Revenue Fund in an amount
12 the State Treasurer estimates is needed to make refunds in
13 accordance with the CMIA. After each annual settlement with the
14 United States Treasury, the State Treasurer shall transfer to the
15 state General Revenue Fund any moneys remaining in the Federal Cash
16 Management Interest Fund for the period ~~just~~ most recently settled.

17 (d) The State Treasurer shall also transfer periodically to
18 the "Federal Cash Management-Administration Fund" which is ~~hereby~~
19 ~~authorized and~~ continued, earnings on the state General Revenue
20 Fund in an amount the Treasurer determines is needed to pay for the
21 costs of administering the CMIA. The State Treasurer may pay the
22 costs he or she incurs in administering the CMIA from the Federal
23 Cash Management-Administration Fund.

24 (e) All state spending units shall cooperate fully with the

1 State Treasurer in accumulating all the necessary data elements to
2 fully comply with the CMIA.

3 (f) The State Treasurer shall send ~~quarterly~~ annual reports on
4 the activities involving the CMIA to the Governor, State Auditor,
5 Secretary of Revenue and Joint Committee on Government and Finance.

6 **ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE**
7 **STATE OR ANY POLITICAL SUBDIVISION.**

8 **§12-2-2. Itemized record of moneys received for deposit;**
9 **regulations governing deposits; credit to state fund;**
10 **exceptions.**

11 (a) All officials and employees of the state authorized by
12 statute to accept moneys on behalf of the State of West Virginia
13 shall keep a daily itemized record of moneys received for deposit
14 in the State Treasury and shall deposit within one business day
15 with the State Treasurer all moneys received or collected by them
16 for or on behalf of the state for any purpose ~~whatsoever~~. The State
17 Treasurer may grant an exception to the one business day rule when
18 circumstances make compliance difficult or expensive. ~~The State~~
19 ~~Treasurer may review the procedures and methods used by officials~~
20 ~~and employees authorized to accept moneys due the state and change~~
21 ~~the procedures and methods if he or she determines it is in the~~
22 ~~best interest of the state: Provided, That the State Treasurer may~~
23 ~~not review or amend the procedures by which the Department of~~

1 ~~Revenue accepts moneys due the state.~~

2 (b) (1) With the exception of the Department of Revenue and its
3 spending units:

4 (i) The State Treasurer shall establish standards for internal
5 controls for spending units receipting moneys, assist spending
6 units in developing and improving their internal control procedures
7 for receipting moneys and providing training;

8 (ii) State spending units accepting moneys shall establish and
9 at least annually review internal control procedures for receipting
10 moneys that safeguard assets, minimize fraud, waste and abuse, and
11 comply with applicable laws, rules and regulations;

12 (iii) At the request of the State Treasurer, state spending
13 units shall submit internal control procedures and any revisions to
14 the internal control procedures for review to the State Treasurer,
15 who may make revisions or suggestions to the internal control
16 procedures if he or she believes the procedures do not provide
17 reasonable protection for moneys collected. A spending unit shall
18 adopt any revisions made by the State Treasurer; and

19 (iv) The State Treasurer may audit the receipting of money by
20 a spending unit. A copy of any audit performed by the State
21 Treasurer shall be submitted to the Legislative Auditor. When any
22 audit of a spending unit involving receipting moneys is conducted
23 by an internal auditor or an auditing firm, the audit shall include
24 an evaluation of and report on the adequacy of internal control

1 procedures for receipting moneys. The spending unit shall send a
2 copy of the audit to the State Treasurer and to the Legislative
3 Auditor within thirty days of receipt of the audit by the spending
4 unit.

5 (2) Any confidential information in internal control
6 procedures shall be redacted before release of the internal control
7 procedures in accordance with a request pursuant to article one,
8 chapter twenty-nine-b of this code.

9 (c) The State Treasurer shall propose rules for legislative
10 approval, in accordance with the provisions of article three,
11 chapter twenty-nine-a of this code governing the procedure for
12 deposits. The official or employee making deposits with the State
13 Treasurer shall prepare deposit lists in the manner and upon report
14 forms prescribed by the State Treasurer in the state accounting
15 system. The State Treasurer shall review the deposits in the state
16 accounting system. ~~and forward the information to the State Auditor~~
17 ~~and to the Secretary of Revenue.~~

18 ~~(b)~~ (d) All moneys received by the state from appropriations
19 made by the Congress of the United States shall be recorded in
20 special fund accounts, in the State Treasury apart from the general
21 revenues of the state, and shall be expended in accordance with the
22 provisions of article eleven, chapter four of this code. All
23 moneys, other than federal funds, defined in section two, article
24 eleven, chapter four of this code, shall be credited to the state

1 fund and treated by the State Auditor and State Treasurer as part
2 of the general revenue of the state except the following funds
3 which shall be recorded in separate accounts:

4 (1) All funds excluded by the provisions of section six,
5 article eleven, chapter four of this code;

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

8 (3) All endowment funds, bequests, donations, executive
9 emergency funds and death and disability funds;

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

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

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

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

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

21 (9) All moneys collected and belonging to the Capitol building
22 fund; state road fund; state road sinking fund; general school
23 fund; school fund; state fund moneys belonging to counties,
24 districts and municipalities; state interest and sinking funds;

1 state compensation funds; the fund maintained by the Public Service
2 Commission for the investigation and supervision of applications
3 and all fees, money, interest or funds arising from the sales of
4 all permits and licenses to hunt, trap, fish or otherwise hold or
5 capture fish and wildlife resources and money reimbursed and
6 granted by the federal government for fish and wildlife
7 conservation; and

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

11 ~~(c)~~ (e) All moneys, except as provided in subdivisions (1)
12 through (9), inclusive, subsection (b) of this section, shall be
13 paid into the State Treasury in the same manner as collections not
14 excepted and recorded in separate accounts for receipt and
15 expenditure for the purposes for which the moneys are authorized to
16 be collected by law: *Provided*, That amounts collected pursuant to
17 subdivisions (1) through (10), subsection (b) of this section,
18 which are found, from time to time, to exceed funds needed for the
19 purposes set forth in general law may be transferred to other
20 accounts or funds and redesignated for other purposes by
21 appropriation of the Legislature. The gross amount collected in all
22 cases shall be paid into the State Treasury. Commissions, costs and
23 expenses, including, without limitation, amounts charged for use of
24 bank, charge, credit or debit cards, incurred in the collection

1 process shall be paid from the gross amount collected in the same
2 manner as other payments are made from the State Treasury.

3 ~~(d)~~ (f) The State Treasurer may establish an imprest fund or
4 funds in the office of any state spending unit upon receipt of a
5 proper application. To implement this authority, the State
6 Treasurer shall propose rules for legislative approval in
7 accordance with the provisions of article three, chapter
8 twenty-nine-a of this code. The State Treasurer or his or her
9 designee shall annually audit all imprest funds and prepare a list
10 of the funds showing the location and amount as of the end of
11 fiscal year ~~end~~, retaining the list as a permanent record of the
12 State Treasurer until the Legislative Auditor has completed an
13 audit of the imprest funds of all agencies and institutions
14 involved.

15 ~~(e)~~ (g) The State Treasurer may develop and implement a
16 centralized receipts processing center. The State Treasurer may
17 request the transfer of equipment and personnel from appropriate
18 state agencies to the centralized receipts processing center in
19 order to implement the provisions of this section: *Provided*, That
20 the Governor or appropriate constitutional officer has authority to
21 authorize the transfer of equipment or personnel to the centralized
22 receipts processing center from the respective agency.

23 **ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.**

24 **§12-3-1. Manner of payment from treasury; form of checks.**

1 (a) Every person claiming to receive money from the treasury
2 of the state shall apply to the State Auditor for a warrant for the
3 same. The State Auditor shall ~~thereupon~~ then examine the claim, and
4 the vouchers, certificates and evidence, if any, offered in support
5 ~~thereof of it~~, and for so much ~~thereof of it~~ as he or she finds to
6 be ~~justly~~ due from the state, if payment ~~thereof of the claim~~ is
7 authorized by law, and if there is an appropriation not exhausted
8 or expired out of which it is properly payable, the State Auditor
9 shall issue his or her warrant on the treasurer, specifying to whom
10 and on what account the money mentioned ~~therein~~ is to be paid, and
11 to what appropriation it is to be charged. The State Auditor shall
12 present to the State Treasurer daily reports on the number of
13 warrants issued, the amounts of the warrants and the dates on the
14 warrants for the purpose of effectuating the investment policies of
15 the State Treasurer and the ~~Investment Management Board~~ West
16 Virginia Investment Management Board and the West Virginia Board of
17 Treasury Investments. On the presentation of the warrant to the
18 State Treasurer, ~~the treasurer~~ he or she shall ascertain whether
19 there are sufficient funds in the treasury to pay that warrant, and
20 if he or she finds it to be so, he or she shall in that case, but
21 not otherwise, endorse his or her check upon the warrant, directed
22 to some depository, which check shall be payable to the order of
23 the person who is to receive the money ~~therein~~ specified.

24 (b) If a check is not presented for payment within six months

1 after it is drawn, it is the duty of the State Treasurer to credit
2 it to the depository on which it was drawn, to credit the
3 "Treasurer's Stale Check Fund," which is hereby created in the
4 State Treasury, and immediately notify the State Auditor to make
5 corresponding entries on the State Auditor's books. If the State
6 Treasurer determines any funds deposited in the stale check account
7 are federal funds, the State Treasurer shall notify the spending
8 unit authorizing the payment. Within six months following issuance
9 of the notice, the spending unit shall inform the State Treasurer
10 of the amount of federal funds included in the check, the account
11 from which the federal funds were disbursed, and the current fiscal
12 year account to which the federal funds are to be transferred.
13 After receiving the information, the State Treasurer shall transfer
14 the amount of federal funds specified as a reimbursement to the
15 current fiscal year account specified to receive federal funds by
16 the spending unit. For a period of up to six months, the State
17 Treasurer shall endeavor to pay the money in the stale check
18 account to the payee. The State Treasurer shall credit the money
19 that has been in the stale check account for six months, or for a
20 shorter period as determined by the State Treasurer, to the
21 unclaimed property fund pursuant to the provisions of article
22 eight, chapter thirty-six of this code, and shall immediately
23 notify the State Auditor to make corresponding entries on ~~the~~
24 ~~Auditor's~~ his or her books.

1 (c) (1) No state depository may pay a state check unless it is
2 presented within six months after it is drawn and every check shall
3 bear upon its face the words "Void, unless presented for payment
4 within six months." If a state check is not presented for payment
5 within six months after it is drawn, the state check is presumed to
6 be a stale check and shall be reported as unclaimed property in
7 accordance with article eight, chapter thirty-six of this code.

8 (2) All state spending units shall regularly monitor checks
9 issued on their behalf in accordance with procedures established by
10 the State Treasurer. Factors to be reviewed and reported to the
11 State Treasurer include, but are not limited to, whether any
12 outstanding check contains federal funds, whether good-faith
13 efforts have been made to locate the payees, and whether the
14 outstanding check still constitutes a valid obligation owed to the
15 payee. If an outstanding state check contains any federal funds,
16 the state spending unit shall advise the State Treasurer of the
17 amount of federal funds included in the check, the account from
18 which the federal funds were disbursed and the current fiscal year
19 account to which the federal funds are to be transferred. If the
20 check remains outstanding and becomes a stale check, the State
21 Treasurer shall credit the amount of the check to the state
22 depository on which the check was issued, notify the State Auditor
23 to make corresponding entries on his or her books, and transfer the
24 amount of federal funds reported as a reimbursement to the current

1 fiscal year account specified to receive the federal funds by the
2 spending unit. The State Treasurer shall transfer any funds from
3 stale checks that are not federal funds into the Unclaimed Property
4 Fund.

5 (d) Any information or records maintained by the State
6 Treasurer concerning any check not presented for payment within six
7 months of the date of issuance is confidential and exempt from
8 disclosure under the provisions of article one, chapter
9 twenty-nine-b of this code, and is disclosable only to the state
10 spending unit authorizing the check, or to the payee, his or her
11 personal representative, next of kin or attorney-at-law.

12 (e) All claims required by law to be allowed by any court, and
13 payable out of the State Treasury, shall have the seal of the court
14 allowing or authorizing the payment of the claim affixed by the
15 clerk of the court to his or her certificate of its allowance. No
16 claim may be audited and paid by the State Auditor unless the seal
17 of the court is thereto attached as aforesaid. No tax or fee may be
18 charged by the clerk for affixing his or her seal to the
19 certificate, referred to in this section. The State Treasurer shall
20 propose rules in accordance with the provisions of article three,
21 chapter twenty-nine-a of this code governing the procedure for such
22 payments from the State Treasury.

NOTE: The purpose of this bill is to make the Cash Management Improvement Act report an annual report since the calculation is only done annually, and to have the State Treasurer establish standards and reviews for receipting moneys of all state spending units except the Department of Revenue.

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