

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 430

(By Senators Edgell, Green, Kirkendoll, Laird, McCabe,
Snyder, Tucker, Unger, Yost and Stollings)

[Originating in the Committee on Government Organization;
reported February 6, 2014.]

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. STATE DEPOSITORIES.

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

1 ~~(a) The Cash Management Improvement Act of 1990,~~
2 ~~Public Law 101-453, October 24, 1990, 31 U.S.C. Section~~
3 ~~6501 et. seq. (CMIA) and regulations, as amended; (a)~~
4 ~~“CMIA” means the Cash Management Improvement Act of~~
5 ~~1990, Public Law 101-453, October 24, 1990, 31 U. S. C.~~
6 ~~Section 6501 et. seq. and regulations, as amended.~~

7 ~~(b) The CMIA~~ establishes requirements and techniques,
8 including calculations, for the receipt and disbursement of
9 federal funds by states. The authorized official and
10 representative of the State of West Virginia for the CMIA is
11 the State Treasurer.

12 ~~(b) (c)~~ In administering the CMIA, the State Treasurer is
13 authorized to do all things reasonably necessary, including,
14 without limitation, entering into agreements with, negotiating
15 settlements with, refunding any interest due and satisfying
16 any liability to the United States Treasury in accordance with
17 the CMIA.

18 ~~(c) (d)~~ Periodically, the State Treasurer shall transfer to
19 the Federal Cash Management Fund, which is ~~hereby~~
20 ~~authorized and~~ continued, earnings on the State General

21 Revenue Fund in an amount the State Treasurer estimates is
22 needed to make refunds in accordance with the CMIA. After
23 each annual settlement with the United States Treasury, the
24 State Treasurer shall transfer to the State General Revenue
25 Fund any moneys remaining in the Federal Cash
26 Management Interest Fund for the period ~~just~~ most recently
27 settled.

28 ~~(d)~~ (e) The State Treasurer shall also transfer periodically
29 to the Federal Cash Management-Administration Fund which
30 is ~~hereby authorized and~~ continued, earnings on the State
31 General Revenue Fund in an amount the Treasurer
32 determines is needed to pay for the costs of administering the
33 CMIA. The State Treasurer may pay the costs he or she
34 incurs in administering the CMIA from the Federal Cash
35 Management-Administration Fund.

36 ~~(e)~~ (f) All state spending units shall cooperate fully with
37 the State Treasurer in accumulating all the necessary data
38 elements to fully comply with the CMIA.

39 ~~(f)~~ (g) The State Treasurer shall send ~~quarterly~~ annual
40 reports on the activities involving the CMIA to the Governor,

41 State Auditor, Secretary of Revenue and Joint Committee on
42 Government and Finance.

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

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

1 (a) All officials and employees of the state authorized by
2 statute to accept moneys on behalf of the State of West
3 Virginia shall keep a daily itemized record of moneys
4 received for deposit in the State Treasury and shall deposit
5 within one business day with the State Treasurer all moneys
6 received or collected by them for or on behalf of the state for
7 any purpose ~~whatsoever~~. The State Treasurer may grant an
8 exception to the one business day rule when circumstances
9 make compliance difficult or expensive. ~~The State Treasurer~~
10 ~~may review the procedures and methods used by officials and~~
11 ~~employees authorized to accept moneys due the state and~~
12 ~~change the procedures and methods if he or she determines~~

13 ~~it is in the best interest of the state: *Provided*, That the State~~
14 ~~Treasurer may not review or amend the procedures by which~~
15 ~~the Department of Revenue accepts moneys due the state:~~

16 (b)(1) With the exception of the Department of Revenue
17 and its spending units:

18 (i) The State Treasurer shall establish standards for
19 internal controls for spending units receipting moneys, assist
20 spending units in developing and improving their internal
21 control procedures for receipting moneys and providing
22 training;

23 (ii) State spending units accepting moneys shall establish
24 and at least annually review internal control procedures for
25 receipting moneys that safeguard assets, minimize fraud,
26 waste and abuse and comply with applicable laws, rules and
27 regulations;

28 (iii) At the request of the State Treasurer, state spending
29 units shall submit internal control procedures and any
30 revisions to the internal control procedures for review to the
31 State Treasurer, who may make revisions or suggestions to
32 the internal control procedures if he or she believes the

33 procedures do not provide reasonable protection for moneys
34 collected. A spending unit shall adopt any revisions made by
35 the State Treasurer; and

36 (iv) The State Treasurer may audit the receipting of
37 money by a spending unit. A copy of any audit performed by
38 the State Treasurer shall be submitted to the Legislative
39 Auditor. When any audit of a spending unit involving
40 receipting moneys is conducted by an internal auditor or an
41 auditing firm, the audit shall include an evaluation of and
42 report on the adequacy of internal control procedures for
43 receipting moneys. The spending unit shall send a copy of the
44 audit to the State Treasurer and to the Legislative Auditor
45 within thirty days of receipt of the audit by the spending unit.

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

50 (c) The State Treasurer shall propose rules for legislative
51 approval, in accordance with the provisions of article three,
52 chapter twenty-nine-a of this code governing the procedure

53 for deposits. The official or employee making deposits with
54 the State Treasurer shall prepare deposit lists in the manner
55 and upon report forms prescribed by the State Treasurer in
56 the state accounting system. The State Treasurer shall review
57 the deposits in the state accounting system. ~~and forward the~~
58 ~~information to the State Auditor and to the Secretary of~~
59 ~~Revenue.~~

60 (b) (d) All moneys received by the state from
61 appropriations made by the Congress of the United States
62 shall be recorded in special fund accounts, in the State
63 Treasury apart from the general revenues of the state, and
64 shall be expended in accordance with the provisions of article
65 eleven, chapter four of this code. All moneys, other than
66 federal funds, defined in section two, article eleven, chapter
67 four of this code, shall be credited to the state fund and
68 treated by the State Auditor and State Treasurer as part of the
69 general revenue of the state except the following funds which
70 shall be recorded in separate accounts:

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

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

76 (3) All endowment funds, bequests, donations, executive
77 emergency funds and death and disability funds;

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

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

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

84 (7) All insurance collected on account of losses by fire
85 and refunds;

86 (8) All funds derived from bookstores and sales of blank
87 paper and stationery, and collections by the chief inspector of
88 public offices;

89 (9) All moneys collected and belonging to the Capitol
90 Building Fund; State Road Fund; State Road Sinking Fund;
91 General School Fund; School Fund; state fund moneys
92 belonging to counties, districts and municipalities; state

93 interest and sinking funds; state compensation funds; the
94 fund maintained by the Public Service Commission for the
95 investigation and supervision of applications and all fees,
96 money, interest or funds arising from the sales of all permits
97 and licenses to hunt, trap, fish or otherwise hold or capture
98 fish and wildlife resources and money reimbursed and
99 granted by the federal government for fish and wildlife
100 conservation; and

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

104 (c) (e) All moneys, except as provided in subdivisions (1)
105 through (9), inclusive, subsection (b) of this section, shall be
106 paid into the State Treasury in the same manner as collections
107 not excepted and recorded in separate accounts for receipt and
108 expenditure for the purposes for which the moneys are
109 authorized to be collected by law: *Provided*, That amounts
110 collected pursuant to subdivisions (1) through (10), subsection
111 (b) of this section, which are found, from time to time, to exceed
112 funds needed for the purposes set forth in general law may be

113 transferred to other accounts or funds and redesignated for other
114 purposes by appropriation of the Legislature. The gross amount
115 collected in all cases shall be paid into the State Treasury.
116 Commissions, costs and expenses, including, without limitation,
117 amounts charged for use of bank, charge, credit or debit cards,
118 incurred in the collection process shall be paid from the gross
119 amount collected in the same manner as other payments are
120 made from the State Treasury.

121 ~~(d)~~ (f) The State Treasurer may establish an imprest fund
122 or funds in the office of any state spending unit upon receipt
123 of a proper application. To implement this authority, the State
124 Treasurer shall propose rules for legislative approval in
125 accordance with the provisions of article three, chapter
126 twenty-nine-a of this code. The State Treasurer or his or her
127 designee shall annually audit all imprest funds and prepare a
128 list of the funds showing the location and amount as of the
129 end of fiscal year ~~and~~, retaining the list as a permanent record
130 of the State Treasurer until the Legislative Auditor has
131 completed an audit of the imprest funds of all agencies and
132 institutions involved.

133 ~~(e)~~ (g) The State Treasurer may develop and implement
134 a centralized receipts processing center. The State Treasurer
135 may request the transfer of equipment and personnel from
136 appropriate state agencies to the centralized receipts
137 processing center in order to implement the provisions of this
138 section: *Provided*, That the Governor or appropriate
139 constitutional officer has authority to authorize the transfer
140 of equipment or personnel to the centralized receipts
141 processing center from the respective agency.

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

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

1 (a) Every person claiming to receive money from the
2 treasury of the state shall apply to the State Auditor for a
3 warrant for the same. The State Auditor shall ~~thereupon then~~
4 examine the claim, and the vouchers, certificates and
5 evidence, if any, offered in support ~~thereof of it~~, and for so
6 much ~~thereof of it~~ as he or she finds to be justly due from the
7 state, if payment ~~thereof of the claim~~ is authorized by law,
8 and if there is an appropriation not exhausted or expired out

9 of which it is properly payable, the State Auditor shall issue
10 his or her warrant on the treasurer, specifying to whom and
11 on what account the money mentioned ~~therein~~ is to be paid,
12 and to what appropriation it is to be charged. The State
13 Auditor shall present to the State Treasurer daily reports on
14 the number of warrants issued, the amounts of the warrants
15 and the dates on the warrants for the purpose of effectuating
16 the investment policies of the State Treasurer and the
17 ~~Investment Management Board~~ West Virginia Investment
18 Management Board and the West Virginia Board of Treasury
19 Investments. On the presentation of the warrant to the State
20 Treasurer, ~~the treasurer~~ he or she shall ascertain whether
21 there are sufficient funds in the treasury to pay that warrant,
22 and if he or she finds it to be so, he or she shall in that case,
23 but not otherwise, endorse his or her check upon the warrant,
24 directed to some depository, which check shall be payable to
25 the order of the person who is to receive the money ~~therein~~
26 specified.

27 (b) If a check is not presented for payment within six
28 months after it is drawn, it is the duty of the State Treasurer

29 to credit it to the depository on which it was drawn, to credit
30 the Treasurer's Stale Check Fund, which is hereby created in
31 the State Treasury, and immediately notify the State Auditor
32 to make corresponding entries on the State Auditor's books.
33 If the State Treasurer determines any funds deposited in the
34 stale check account are federal funds, the State Treasurer
35 shall notify the spending unit authorizing the payment.
36 Within six months following issuance of the notice, the
37 spending unit shall inform the State Treasurer of the amount
38 of federal funds included in the check, the account from
39 which the federal funds were disbursed, and the current fiscal
40 year account to which the federal funds are to be transferred.
41 After receiving the information, the State Treasurer shall
42 transfer the amount of federal funds specified as a
43 reimbursement to the current fiscal year account specified to
44 receive federal funds by the spending unit. For a period of up
45 to six months, the State Treasurer shall endeavor to pay the
46 money in the stale check account to the payee. The State
47 Treasurer shall credit the money that has been in the stale
48 check account for six months, or for a shorter period as

49 determined by the State Treasurer, to the unclaimed property
50 fund pursuant to the provisions of article eight, chapter
51 thirty-six of this code, and shall immediately notify the State
52 Auditor to make corresponding entries on ~~the Auditor's~~ his
53 or her books.

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

62 (2) All state spending units shall regularly monitor checks
63 issued on their behalf in accordance with procedures
64 established by the State Treasurer. Factors to be reviewed
65 and reported to the State Treasurer include, but are not
66 limited to, whether any outstanding check contains federal
67 funds, whether good-faith efforts have been made to locate
68 the payees and whether the outstanding check still constitutes

69 a valid obligation owed to the payee. If an outstanding state
70 check contains any federal funds, the state spending unit shall
71 advise the State Treasurer of the amount of federal funds
72 included in the check, the account from which the federal
73 funds were disbursed and the current fiscal year account to
74 which the federal funds are to be transferred. If the check
75 remains outstanding and becomes a stale check, the State
76 Treasurer shall credit the amount of the check to the state
77 depository on which the check was issued, notify the State
78 Auditor to make corresponding entries on his or her books
79 and transfer the amount of federal funds reported as a
80 reimbursement to the current fiscal year account specified to
81 receive the federal funds by the spending unit. The State
82 Treasurer shall transfer any funds from stale checks that are
83 not federal funds into the Unclaimed Property Fund.

84 (d) Any information or records maintained by the State
85 Treasurer concerning any check not presented for payment
86 within six months of the date of issuance is confidential and
87 exempt from disclosure under the provisions of article one,
88 chapter twenty-nine-b of this code, and is disclosable only to

89 the state spending unit authorizing the check, or to the payee,
90 his or her personal representative, next of kin or attorney at
91 law.

92 (e) All claims required by law to be allowed by any court,
93 and payable out of the State Treasury, shall have the seal of
94 the court allowing or authorizing the payment of the claim
95 affixed by the clerk of the court to his or her certificate of its
96 allowance. No claim may be audited and paid by the State
97 Auditor unless the seal of the court is thereto attached as
98 aforesaid. No tax or fee may be charged by the clerk for
99 affixing his or her seal to the certificate, referred to in this
100 section. The State Treasurer shall propose rules in accordance
101 with the provisions of article three, chapter twenty-nine-a of
102 this code governing the procedure for such payments from
103 the State Treasury.