

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 281

BY SENATORS GAUNCH, MAYNARD, BALDWIN, BOSO,

CLEMENTS, JEFFRIES, MARONEY, PALUMBO, SMITH,

SYPOLT, TAKUBO, WELD, AND CLINE

[Introduced January 15, 2018; Referred

to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto two new
 2 sections, designated §5A-2-35 and §5A-2-36, all relating generally to the state’s spending
 3 units; requiring comprehensive annual financial reports; requiring training; requiring
 4 notice; requiring reporting; prescribing penalties for noncompliance; providing for an
 5 administrative appeal; and establishing deadlines for creation of the comprehensive
 6 annual financial report.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. FINANCE DIVISION.

§5A-2-35. Required training; required notice, required reporting; penalties for non-compliance; administrative appeal.

1 (a) The head of each spending unit, or his or her designee, shall annually attend the
 2 Generally Accepted Accounting Principles and Single Audit Closing Book Process training
 3 provided by the financial accounting and reporting section, related to the required spending unit
 4 reporting to the Finance Division in order for the section and the division to prepare the
 5 comprehensive annual financial report of the state on or before December 31 of each year.

6 (b) On or before July 31 of each year, the division shall prepare and deliver a notice to the
 7 head of each spending unit that contains, at a minimum, the information required to be submitted,
 8 the deadlines for submission, the penalties for failure to comply, and any other information the
 9 division deems appropriate.

10 (c) On or before September 15 of each year, the head of each spending unit shall prepare
 11 and report a draft of the required information outlined in subsection (b) of this section.

12 (d) On or before October 15 of each year, the head of each spending unit shall prepare
 13 and report the information required pursuant to subsection (b) of this section.

14 (e) On or before October 31 of each year, the head of each spending unit shall prepare
 15 and report to the Finance Division all closing book forms, reports and any other information
 16 required by the division and by this section.

17 (f) Each Friday, after October 31 of each year, and until each spending unit has complied
18 with the reporting requirements of this section, the financial accounting and reporting section and
19 the division shall report to the Secretary of Administration on spending unit compliance and
20 delivery of the closing book forms, reports and all other information required by this section and
21 the division. Beginning November 1 of each year, and every day thereafter that a spending unit
22 is not in compliance with the reporting requirements of this section, the financial accounting and
23 reporting section within the finance division, and the division, shall prepare a weekly report to the
24 secretary naming the spending unit and the number of days that the spending unit is not in
25 compliance.

26 (g) For each spending unit not in compliance with the reporting requirements of this
27 section, the Secretary of Administration shall issue an administrative fine of \$100 per day for every
28 calendar day the spending unit is late and not in compliance with the reporting requirements of
29 this section. The administrative fine authorized pursuant to this section shall be deposited into the
30 General Revenue Fund of this state. The secretary shall weekly notify the head of each
31 noncompliant spending unit that an administrative fine is being assessed pursuant to this section,
32 and provide the number of days delinquent and notice that for each additional day that the closing
33 book forms, reports and all other information required are not delivered will result in an additional
34 \$100 per day fine: *Provided*, That the fine may not be paid with federal funds.

35 (h) The head of a spending unit fined for noncompliance with the required reporting shall
36 have fifteen calendar days in which he or she may respond to the notice of administrative fine,
37 and pay the fine, or describe in writing any circumstances beyond his or her control that materially
38 contributed to the delay. After notice to the spending unit, and the opportunity to respond, the
39 secretary shall issue written findings to the head of the spending unit and order the payment of
40 the fine, itemized by the number of days for which the fine is issued, reduce the fine, or waive the
41 fine: *Provided*, That the secretary shall issue the written report no later than fifteen days after the
42 receipt of the spending unit's response.

43 (i) The head of a spending unit that has been assessed an administrative fine ordered by
 44 the secretary pursuant to this section may appeal, within thirty days of the receipt of the written
 45 notice by the secretary, to the Circuit Court of Kanawha County.

§5A-2-36. Comprehensive annual financial report publication deadlines.

1 If the Finance Division receives all of the necessary reports from spending units by
 2 October 31, the division shall issue the comprehensive annual financial report by December 31.
 3 Otherwise, the division shall issue the comprehensive annual financial report within two months
 4 of receipt of all necessary reports from the spending units.

NOTE: The purpose of this bill is to require the preparation of a comprehensive annual financial report. The bill requires heads of spending units to prepare financial statements. The bill requires notice be given to the spending units. The bill establishes deadlines for the spending units. The bill requires training. The bill prescribes an administrative fine if the required reporting is not timely submitted. The bill provides for a response by the head of a spending unit. The bill provides for judicial appeal. The bill establishes deadlines for the submission of the comprehensive annual financial report.

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

This bill is recommended by the interim Joint Committee on Government Organization for introduction and passage during the 2018 Regular Session.