

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 581**

BY SENATOR GAUNCH

[Introduced February 16, 2018; Referred  
to the Committee on Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §11-10-5dd, relating to allowing certain tax information to be shared with the  
 3 Director of Purchasing Division, Department of Administration, Director of the Public  
 4 Employees Insurance Agency, Department of Administration, and State Auditor, pursuant  
 5 to written agreements; and defining terms.

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

**ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

**§11-10-5dd. Disclosure of certain tax information to Director of Purchasing Division,  
 Department of Administration; Executive Director of Public Employees Insurance  
 Agency, Department of Administration; Chief Executive Officer of the Enterprise  
 Resource Planning Board; and State Auditor.**

1 (a) General. -- Notwithstanding any provision of this code to the contrary, the Tax  
 2 Commissioner may enter into written agreements with other agencies of this state, as provided in  
 3 this section, to share certain tax information, as defined in this section.

4 (b) Contracts with the state. — Notwithstanding any provision of this article to the contrary,  
 5 the Tax Commissioner may enter into a written agreement with the chief executive officer of an  
 6 agency with authority to award public contracts for the purchase or lease of goods or services, or  
 7 with the Chief Executive Officer of the Enterprise Resource Planning Board, to disclose whether  
 8 a vendor, or prospective vendor, is in good standing before a public contract, or renewal thereof,  
 9 is awarded.

10 (c) Public Employees Insurance Agency, Department of Administration. -- The Director of  
 11 the Public Employees Insurance Agency is authorized to request from the Tax Commissioner;  
 12 and the Tax Commissioner shall provide to the Public Employees Insurance Agency (PEIA)  
 13 confirmation of whether a resident employee, or a resident retired employee, currently enrolled in  
 14 PEIA and receiving any benefits in a plan, including the employee's, or retired employee's spouse,  
 15 and whether any resident retired employee who deferred retirement and is requesting enrollment

16 in the PEIA as a retiree, correctly reported the total amount of his or her federal adjusted gross  
17 income and his or her spouse's federal adjusted gross income, whether they filed jointly or  
18 separately, to the PEIA in the brackets established by the PEIA: *Provided*, That nothing in this  
19 subsection authorizes the Tax Commissioner to provide PEIA with the federal adjusted gross  
20 income or the West Virginia adjusted federal adjusted gross income of the employee or retired  
21 employee, or any other information from the West Virginia personal income tax return.

22 As used in this subsection, the terms "employee" and "retired employee" are defined in  
23 §5-16-2 of this code.

24 (d) *State Auditor*. -- The State Auditor is authorized to request from the Tax Commissioner,  
25 and the Tax Commissioner shall provide to the State Auditor confirmation whether a vendor for  
26 whom payment of funds is pending in the Auditor's office is in good standing with the Tax  
27 Commissioner. When the State Auditor provides the Tax Commissioner an electronic file  
28 identifying the prospective vendors to be paid, the Tax Commissioner will determine in a timely  
29 manner whether the vendor is in good standing and, if the vendor is not in good standing,  
30 electronically advise the State Auditor of the amount of taxes, interest and additions to tax that  
31 are then due and owing by that vendor to the Tax Commissioner that should be offset, if any, or  
32 that the vendor needs to contact the Tax Commissioner's office to resolve the issue that prevents  
33 the vendor from being in good standing, before the vendor will be paid by the state.

34 (e) As used in this section, the term "good standing" means that the person has a current  
35 business registration certificate under §11-12-1 *et seq.* of this code, has filed all required returns  
36 for taxes administered under this article and has paid all taxes shown to be due on those returns.  
37 A person is in "good standing" even though the person may be paying taxes under a payment  
38 plan provided the person is in compliance with the terms of the written payment plan agreement;  
39 or is contesting an assessment for one or more taxes administered under this article before the  
40 Office of Tax Appeals or in a court of this state.

41 (f) Exchanges of information under this section shall occur pursuant to memorandums of

42 understanding executed by the Tax Commissioner and the chief executive officer of any agency  
43 to award public contracts for the purchase or lease of goods or services, the Chief Executive  
44 Officer of the Enterprise Resource Planning Board, the Director of the Public Employees  
45 Insurance Agency, or the State Auditor, as the case may be. These memorandums may be  
46 amended from time to time.

NOTE: The purpose of this bill is to allow the Tax Commissioner to share certain state tax information with the Director of the Purchasing Division, Department of Administration; the Director of the Public Employees Insurance Agency; the Chief Executive Officer of the Enterprise Resource Planning Board, and the State Auditor.

Not all members of PEIA are subject to West Virginia personal income tax. If an employee is a resident of Kentucky, Maryland, Ohio, Pennsylvania or Virginia (states with which West Virginia has a reciprocity agreement) the employee generally does not file a West Virginia personal income tax return. If the retired employee is a resident of another state, the retired employee will generally not file a West Virginia personal income tax return because the retiree's retirement benefits are not subject to the West Virginia personal income tax, as provided in 4 U.S.C. § 114.

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