

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4454

BY DELEGATE LINVILLE

[Introduced January 22, 2020; Referred to the
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §6-9-8 of the Code of West Virginia, 1931, as amended, relating to
2 restitution to the state for the reimbursement of costs incurred for misuse of public funds.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. SUPERVISOR OF LOCAL GOVERNMENT OFFICES.

§6-9-8. Payment of cost of services of chief inspector; revolving fund.

1 (a) The cost of any service or act performed by the chief inspector under the provisions of
2 this article as to any county or district office, officer or institution shall be paid by the county
3 commission of the county; the cost of any service or act to any board of education shall be paid
4 by the board; the cost of any service or act to any municipal corporation shall be paid by the
5 authorities of the municipal corporation: *Provided*, That in municipalities in which the total revenue
6 from all taxes does not exceed the sum of \$2,000 annually, the cost including the per diem and
7 all actual costs and expenses of the services shall not exceed the sum of \$200. The cost of this
8 service shall be the actual cost and expense of the service performed, including transportation,
9 hotel, meals, materials, per diem compensation of deputies, assistants, clerical help, and the other
10 costs that are necessary to enable them to perform the services required, but the costs shall not
11 exceed the sum of \$3,000 for services rendered to a Class IV municipality: *Provided, however*,
12 That the chief inspector may charge up to an additional \$3,000 for costs incurred for each service
13 or act performed for a utility or park system owned by a Class IV municipality and for each
14 policemen's and firemen's pension and relief fund maintained by the municipality: *Provided*
15 *further*, That if a municipality is required to undergo a single audit by the federal agency or
16 agencies making a grant, the cost limitations of this subsection do not apply: *And provided further*,
17 That the chief inspector shall provide a written quote for all costs in advance for all services
18 required by this article. The chief inspector shall render to the agency liable for the cost a
19 statement of the cost as soon after the cost was incurred as practicable and the agency shall
20 allow the cost and cause it to be paid promptly in the manner that other claims and accounts are
21 allowed and paid and the total amount constitutes a debt against the local agency due the state.

22 Whenever there is in the State Treasury a sum of money due any county commission, board of
23 education or municipality from any source, upon the application of the chief inspector, the sum
24 shall be at once applied on the debt against the county commission, board of education or
25 municipality and the fact of the application of the fund shall be reported by the Auditor to the
26 county commission, board of education or municipality, which report shall be a receipt for the
27 amount named in the report. All money received by the chief inspector from this source shall be
28 paid into the State Treasury, shall be deposited to the credit of an account to be known as chief
29 inspector's fund and shall be expended only for the purpose of covering the cost of the services,
30 unless otherwise directed by the Legislature. The cost of any examination, service, or act by the
31 chief inspector made necessary, or the part thereof that was made necessary, by the willful fault
32 of any officer or employee, may be recovered by the chief inspector from that person, on motion,
33 on 10-days' notice in any court having jurisdiction.

34 (b) For the purpose of permitting payments to be made at definite periods to deputy
35 inspectors and assistants for per diem compensation and expenses, there is hereby created a
36 revolving fund for the chief inspector's office. The fund shall be accumulated and administered as
37 follows:

38 (1) There shall be appropriated from the state General Revenue Fund the sum of \$25,000
39 to be transferred to this fund to create a revolving fund which, together with other payments into
40 this fund as provided in this article, shall constitute a fund to defray the cost of this service;

41 (2) Payments received for the cost of services of the chief inspector's office and interest
42 earned on the invested balance of the chief inspector's revolving fund shall be deposited into this
43 revolving fund, which shall be known as the Chief Inspector's Fund;

44 (3) Any appropriations made to this fund may not be considered to have expired at the
45 end of any fiscal period; and

46 (4) The chief inspector may transfer an amount not to exceed \$400,000 from the Chief
47 Inspector's Fund to the special operating fund created in §32-4-1 *et seq.* of this code: *Provided,*

48 That any transfers shall be completed prior to July 1, 2003.

49 (c) Notwithstanding §61-11A-4 of this code, a court, when sentencing a defendant
50 convicted of a felony or misdemeanor based upon any audit, examination, or investigation by the
51 State Auditor, which discloses misfeasance, malfeasance, or nonfeasance in office on the part of
52 any public officer or employee, the court may, in its discretion, order reimbursement to the State
53 Auditor for the actual costs of auditing, investigating, or prosecuting a violation.

54 (d) There is hereby established a special fund in the State Treasury known as the "State
55 Auditor's Public Integrity and Fraud Fund". The fund shall be administered by the State Auditor
56 and shall consist of moneys deposited in the fund pursuant to this subsection, any other funds
57 appropriated by the Legislature to enhance fraud detection, prevention, transparency and
58 enforcement efforts for the purposes of carrying out the duties under this article, and §12-4A-3 of
59 this code, and the interest or other earnings on the moneys in the fund. The State Auditor shall
60 administer the distribution of moneys of the fund to volunteer fire departments to help defray
61 workers' compensation insurance premium increases pursuant to said section.

NOTE: The purpose of this bill is to authorize an order of restitution to the state for reimbursement of costs incurred for misuse of public funds, and to create the State Auditor's Public Integrity and Fraud Fund for use of said funds.

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