

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2781

FISCAL
NOTE

BY DELEGATES FOSTER, STEELE, D. JEFFRIES,
SUMMERS, KIMES, J. PACK, LINVILLE, HARDY, AND
JENNINGS

[Introduced February 26, 2021; Referred to the
Committee on the Judiciary then Finance]

1 A BILL to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating
 2 to establishing an Occupational Licensing Legal Fund from existing revenue; creating
 3 special revenue fund; providing for transfer of money from excess receipts of occupational
 4 licensing boards; specifying authorized uses of fund; providing that expenditures are
 5 subject to appropriation by Legislature; requiring transfer of balance excess to General
 6 Revenue Fund; and providing for notification to the Legislative Auditor.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF
 EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.**

§30-1-10. Disposition of money fines; legislative audit; review of board's fee structure.

1 (a) The secretary of every board referred to in this chapter shall receive and account for
 2 all money which it derives pursuant to the provisions of this chapter which are applicable to it.
 3 With the exception of money received as fines, each board shall pay all money which is collected
 4 into a separate special fund of the State Treasury which has been established for each board.
 5 This money shall be used exclusively by each board for purposes of administration and
 6 enforcement of its duties pursuant to this chapter. Any money received as fines shall be deposited
 7 into the General Revenue Fund of the State Treasury. When the special fund of any board
 8 accumulates to an amount which exceeds ~~twice the annual budget~~ the average actual annual
 9 expenses over the past five years, excluding zero-dollar years, of the board or \$10,000, whichever
 10 is greater, the State Treasurer shall:

11 (1) Transfer the excess amount to the ~~state General Revenue Fund~~ Occupational
 12 Licensing Legal Fund created in subsection (c) of this section; and

13 (2) Notify the Legislative Auditor that the transfer has been made.

14 (b)(1) Every licensing board which is authorized by the provisions of this chapter shall be
 15 subject to audit by the office of the Legislative Auditor.

16 (2) Within a reasonable time after the State Treasurer notifies the Legislative Auditor of a
17 transfer required to be made under this section, the Legislative Auditor shall conduct a review of
18 the fee structure of the applicable board to determine if the amount of the board's fees generate
19 excessive revenue, when compared to the board's normal expenses. If the Legislative Auditor
20 finds that excess revenue is generated, he or she shall report his or her findings to the
21 Legislature's Joint Standing Committee on Government Organization, along with
22 recommendations on how the fees can be adjusted to generate only the amount the board
23 reasonably needs to operate under this chapter.

24 (c) Beginning July 1, 2022, the Occupational Licensing Legal Fund is hereby created in
25 the State Treasury. The fund shall be administered by Treasurer and shall consist of all moneys
26 made available from any source, including, but not limited to, all amounts transferred into the fund
27 by the boards as required by subsection (a) of this section or transfers from any source, any
28 moneys that may be appropriated and designated for the fund by the Legislature, and all interests
29 or other return earned from investment of the fund. Expenditures of the fund shall be used to pay
30 legal fees and court costs to the West Virginia Attorney General, or other counsel, incurred within
31 the operation of the licensing boards covered under this chapter and are not authorized from
32 collections, but are to be made only in accordance with appropriated from the Legislature and in
33 accordance with §12-3-1 of this code and upon the fulfillment of the provisions set forth in §11B-
34 2-1 et seq. of this code. Any balance, including accrued interest and other returns, remaining in
35 the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall
36 remain in the fund and be expended as provided by this section: *Provided*, That before this fund
37 may be used for outside counsel, the Office of the Attorney General must indicate that the office
38 lacks the required expertise or staff to adequately represent the board.

39 (d) When the balance in the Occupational Licensing Legal Fund exceeds \$2,000,000, the
40 State Treasurer shall transfer the excess to the General Revenue Fund and notify the Legislative
41 Auditor that the transfer has been made.

NOTE: The purpose of this bill is to establish a special revenue fund out of existing receipts to pay legal fees and court costs to the West Virginia Attorney General, or other counsel, incurred within the operation of the occupational licensing boards.

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