WEST virginia legislature

2023 regular session

Committee Substitute

for

Senate Bill 248

By Senator Woodrum

[Originating in the Committee on Finance; reported on January 25, 2023]

A BILL to amend and reenact §30-1-10 of the Code of West Virginia, 1931, as amended, relating to when excess funds accumulated by boards are to be transferred to the General Revenue Fund of the State Treasury; providing for an alternative to the excess funds transfer; and providing for rulemaking.

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.

(a) The secretary of every board referred to in this chapter shall receive and account for all money which it derives pursuant to the provisions of this chapter which are applicable to it. With the exception of money received as fines, each board shall pay all money which is collected into a separate special fund of the State Treasury which has been established for each board. This money shall be used exclusively by each board for purposes of administration and enforcement of its duties pursuant to this chapter. Any money received as fines shall be deposited into the General Revenue Fund of the State Treasury. When the end-of-year cash balance of any special fund of any board accumulates to an amount which exceeds ~~twice the annual budget of the board or $10,000, whichever is greater~~ the sum of twice the board’s total current actual expenditures for the last fiscal year, the State Treasurer shall:

(1) Transfer the excess amount to the state General Revenue Fund: *Provided*, That the maximum amount that may be transferred from the board in any fiscal year may not exceed $200,000; and

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

(b) The transfer authorized in subsection (a)(1) of this section is not necessary if a board reduces any fees or dues associated with membership on the board, licensure by the board, or administration of the board by 50 percent of the current fee schedule if such fee or fees are set forth in legislative rule filed pursuant to §29A-3-1 *et seq.* of this code. Any such reduction shall be accomplished by the filing of an emergency rule pursuant to the provisions of §29A-3-15 of this code. Such rules shall have language clearly indicating a 50 percent reduction in membership, licensure, and administrative fees. The provisions of this subsection are not applicable to any board whose fees are set forth in statute.

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

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