

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



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SECRETARY OF STATE
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HOUSE BILL No. 4866

(By Delegates Love, Osborne, Varner,
Cann, Harrison, Sprouse and Calvert)



Passed March 8, 1996

In Effect Ninety Days from Passage

ENROLLED

H. B. 4866

(BY DELEGATES LOVE, OSBORNE, VARNER, CANN,
HARRISON, SPROUSE AND CALVERT)

[Passed March 8, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one, article three, chapter twelve of said code; and to further amend article six of said chapter twelve by adding thereto a new section, designated section nine-g, relating to furnishing certain reports to the board of investments requiring the secretary of the department of administration to provide the board of investments with monthly revenue projections and projections of the daily revenue flows for the general revenue fund; requiring the auditor to present daily reports to the board of investments on warrants issued; and requiring that securities shall be held by the board of investments, its custodian bank or a neutral third party when the board enters into repurchase agreements.

Be it enacted by the Legislature of West Virginia:

That section eleven, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section one, article three, chapter twelve of said code be amended and reenacted; and that article six, chapter twelve be amended by adding thereto a new section, designated section ^{five-g} ~~five-a~~, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 2. FINANCE DIVISION.

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§5A-2-11. Estimates of revenue; reports on revenue collections; withholding department funds on noncompliance.

1 (a) Prior to the beginning of each fiscal year the secre-
2 tary shall estimate the revenue to be collected month by
3 month by each classification of tax for that fiscal year as it
4 relates to the official estimate of revenue for each tax for
5 that fiscal year and the secretary shall certify this estimate
6 to the governor and the legislative auditor and the board
7 of investments by the first day of July for that fiscal year.

8 The secretary shall ascertain the collection of the reve-
9 nue of the state and shall determine for each month of the
10 fiscal year the proportion which the amount actually col-
11 lected during a month bears to the collection estimated by
12 him or her for that month. The secretary shall certify to
13 the governor, the legislative auditor and the board of in-
14 vestments, as soon as possible after the close of each
15 month, and not later than the fifteenth day of each month,
16 and at such other times as the governor, the legislative
17 auditor or the board of investments may request, the con-
18 dition of the state revenues and of the several funds of the
19 state and the proportion which the amount actually col-
20 lected during the preceding month bears to the collection
21 estimated by him or her for that month. The secretary
22 shall include in this certification the same information
23 previously certified for prior months in each fiscal year.
24 For the purposes of this section, the secretary shall have
25 the authority to require all necessary estimates and reports
26 from any spending unit of the state government.

27 If the secretary fails to certify to the governor, the
28 legislative auditor and the board of investments the infor-
29 mation required by this subsection within the time speci-
30 fied herein, the legislative auditor shall notify the auditor
31 and treasurer of the failure, and thereafter no funds appro-
32 priated to the department of administration may be ex-
33 pended until the secretary has certified the information
34 required by this subsection.

35 (b) Prior to the first day of July of each fiscal year, the
36 secretary shall estimate daily revenue flows for the general
37 revenue fund for the next fiscal year as it relates to the

38 official estimate of revenue. Subsequent to the end of each
39 fiscal year, the secretary shall compare the projected daily
40 revenue flows with the actual daily revenue flows from the
41 previous year. The secretary may for any month or
42 months, at his or her discretion, revise the annual projec-
43 tions of the daily revenue flows. The secretary shall certify
44 to the governor, the legislative auditor and the board of
45 investments, as soon as possible after the close of each
46 month, and not later than the fifteenth day of each month,
47 and at such other times as the governor, the legislative
48 auditor or the board of investments may request, the con-
49 dition of the general revenue fund and the comparison of
50 the projected daily revenue flows with the actual daily
51 revenue flows. If the secretary fails to certify to the gover-
52 nor, the legislative auditor and the board of investments
53 the information required by this subsection within the time
54 specified herein, the legislative auditor shall notify the
55 auditor and treasurer of the failure, and thereafter no
56 funds appropriated to the department of administration
57 may be expended until the secretary has certified the in-
58 formation required by this subsection.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUC- TIONS.

§12-3-1. Manner of payment from treasury; form of checks.

1 Every person claiming to receive money from the
2 treasury of the state shall apply to the auditor for a warrant
3 for same. The auditor shall thereupon examine the claim,
4 and the vouchers, certificates and evidence, if any, offered
5 in support thereof, and for so much thereof as he or she
6 finds to be justly due from the state, if payment thereof is
7 authorized by law, and if there is an appropriation not
8 exhausted or expired out of which it is properly payable,
9 the auditor shall issue his or her warrant on the treasurer,
10 specifying to whom and on what account the money men-
11 tioned therein is to be paid, and to what appropriation it is
12 to be charged. The auditor shall present to the board of
13 investments daily reports on the number of warrants is-
14 sued, the amounts of the warrants and the dates on the
15 warrants for the purpose of effectuating the investment

16 policy of the board of investments. On the presentation of
17 the warrant to the treasurer, the treasurer shall ascertain
18 whether the warrant has been drawn in pursuance of an
19 appropriation made by law, and if he or she finds it to be
20 so, he or she shall in that case, but not otherwise, endorse
21 his or her check upon the warrant, directed to some depos-
22 itory, which check shall be payable to the order of the
23 person who is to receive the money therein specified; or
24 the treasurer may issue a bank wire in payment of the
25 warrant. If the check is not presented for payment within
26 six months after it is drawn, it shall then be the duty of the
27 treasurer to credit it to the depository on which it was
28 drawn, to credit the state fund with the amount, and imme-
29 diately notify the auditor to make corresponding entries
30 on the auditor's books. No state depository may pay a
31 check unless it is presented within six months after it is
32 drawn and every check shall bear upon its face the words,
33 "Void, unless presented for payment within six months."
34 All claims required by law to be allowed by any court, and
35 payable out of the state treasury, shall have the seal of the
36 court allowing or authorizing the payment of the claim
37 affixed by the clerk of the court to his or her certificate of
38 its allowance; and no such claim may be audited and paid
39 by the auditor unless the seal of the court is thereto at-
40 tached as aforesaid. No tax or fee may be charged by the
41 clerk for affixing his or her seal to the certificate, referred
42 to in this section. The treasurer and the board of invest-
43 ments shall jointly promulgate rules in accordance with
44 the provisions of chapter twenty-nine-a of this code gov-
45 erning the procedure for such payments from the trea-
46 sury.

ARTICLE 6. WEST VIRGINIA STATE BOARD OF INVEST- MENTS.

§12-6-9g. Securities handling.

1 In financial transactions whereby securities are pur-
2 chased by the board under an agreement providing for the
3 resale of such securities to the original seller at a stated
4 price, the board shall take physical possession of the secu-
5 rities, directly, by its custodian bank or through a neutral
6 third party: *Provided*, That an agreement with a neutral

7 third party may not waive liability for the handling of the
8 securities: *Provided, however,* That when the board is
9 unable to take possession; directly, by its custodian bank
10 or through a mutual third party, the board may leave secu-
11 rities in a segregated account with the original seller, pro-
12 vided the amount of the securities with any one seller may
13 not exceed one hundred and fifty million dollars.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Hubert H. Stornover
Chairman Senate Committee

Lundy Seunt
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Carroll G. White
Clerk of the Senate

Gregory M. Baum
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Paul Chalmers
Speaker of the House of Delegates

The within *is approved* this the *1st*
day of *April*, 1996.

Easton Caputo
Governor

PRESENTED TO THE

GUBERNOR

Date 3/27/96

Time 3:04 pm