WEST VIRGINIA CODE CHAPTER 12 ARTICLE 4

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§12-4-1. Biennial reports.

All reports, settlements, accounts and statements which are now, or that hereafter may be required by law, shall be kept and made to conform to the fiscal year. As soon as practicable after June thirtieth, nineteen hundred and thirty-two, each of the officers or boards now or hereafter required by law to compile a biennial report shall compile a report covering the two preceding years, and every two years thereafter the biennial reports shall be made for the two preceding years.

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§12-4-2. Accounts of Treasurer and Auditor; Auditor to certify condition of revenues and funds of the state.

The Treasurer shall keep in his or her office separate accounts with each depository, and also a summary account for the state, and when money is paid into the treasury, it shall be charged to the proper depository and credited to a summary account. The Auditor shall keep in his or her office separate accounts of the particular heads or sources of revenue, and a summary account with the Treasurer, beside such individual accounts with officers and persons as may be necessary, and shall charge every sum of money received for the state as aforesaid to the Treasurer's account, and credit it under the particular head of revenue to which it properly belongs, distinguishing especially in distinct accounts the receipts on account of the capital of the school fund and those on account of the income of said fund subject to annual distribution. The Auditor shall certify annually to the Secretary of Revenue the condition of the state revenues and the several funds of the state. The certification shall be used by the Secretary in the preparation of a tentative state budget as required of him or her by §5-1A-1 *et seq.*, and §11B-2-1 *et seq.* of this code.

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§12-4-3. Accounts of appropriations.

The Auditor and Secretary of Revenue shall each keep an account of every appropriation made by law, and of the several sums drawn thereon, so that the accounts may show at all times the balance undrawn on each appropriation. The account so kept shall be compared every month and errors, if any, corrected.

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§12-4-3a. Accounts of the Auditor.

The Auditor shall at all times maintain and have available for public inspection a report containing monthly balances in the treasury, which balances shall include, but not be limited to, the general revenue surplus balance; the general revenue surplus appropriation account balance; the state general revenue reappropriated account balance; the state general revenue current account balance; the total state account balance; and the total general revenue.

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§12-4-4. Accounts of expenditures; signing of checks and warrants; facsimile signatures and use of mechanical and electrical devices; forgery; penalty.

When the treasurer issues his check on a depository, he or she shall credit the same to the account of the depository, and charge it to the summary account provided for in section two of this article. The Auditor shall keep accounts of the particular heads of expenditures, and, when he or she issues a warrant on the treasurer, shall credit the treasurer's summary account therewith and charge the same under the particular head of expenditure to which it properly belongs, distinguishing especially the disbursements on account of the capital and the annual income of the school fund, as directed in section two of this article in relation to receipts belonging to that fund. All checks when issued by the treasurer shall bear his or her signature, personally signed by the treasurer, or by employees as are, in writing, authorized by the treasurer to make his or her signature thereto, or bear a facsimile of the treasurer's signature. All warrants when issued by the Auditor shall bear his or her signature, personally signed by the Auditor, or by employees as are, in writing, authorized by the Auditor to make his or her signature thereto, or bear a facsimile of the Auditor's signature. The signature of the treasurer, or Auditor, respectively, may be made, however, by means of such mechanical or electrical device as the treasurer, or Auditor, respectively, may select. Any mechanical or electrical device selected shall be safely kept in the respective offices of the treasurer or Auditor so that no one has access to the device except the treasurer, or the Auditor, and the employees authorized to respectively sign checks or warrants as provided by this section. If any person, other than the treasurer, or Auditor, respectively, or their respective duly and respectively authorized employees, sign the name of the treasurer or the Auditor, respectively, by the use of any mechanical or electrical device, or otherwise, or use the facsimile of the signature of either of them, on any check or warrant, or utter or attempt to employ as true such forged check or warrant, knowing it to be forged, he or she shall be guilty of a felony and, upon conviction thereof, shall be imprisoned not less than two nor more than ten years.

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§12-4-5. Individual accounts; Auditor to notify sureties when sheriff defaults.

There shall be kept in the Auditor's office all necessary and proper accounts of persons having pecuniary transactions with the state, and especially accounts of all persons employed in the collection of any part of the public revenue, including the school fund. In case of a default made by any sheriff in the prompt payment of money due from him as such sheriff of his county, it shall be the duty of the Auditor, within sixty days after default is made by such sheriff, to notify the sureties on the official bond of such sheriff. In such notice to the sureties, the amount of indebtedness of such sheriff shall be stated, including all the funds due to the state from such sheriff, and the Auditor shall also lodge a copy of such notice with the clerk of the county court of the county of such defaulting sheriff, and with the State Tax Commissioner.

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§12-4-6. Comparison of books of Auditor and treasurer; monthly balances.

At the end of every month of the year, the summary account of the treasurer kept on the books of the Auditor's office shall be compared with the summary account kept by the treasurer, and the errors, if there be any in either, corrected. The summary account of the month shall be adjusted and a balance shall be struck showing the amount then in the treasury. The balance shall be carried forward in the books of both offices to the account for the next month.

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§12-4-7. Annual state dollar report of Auditor.

The Auditor shall furnish annually to the Governor, the President of the Senate, and the Speaker of the House of Delegates on or before January 15, a report detailing financial information for the prior calendar and fiscal year. It shall contain a statement of the receipts and disbursements, under the proper general heads, during the preceding fiscal year, and show the balance in the Treasury at the beginning and end of that year. It shall also contain an estimate of the revenue and expenditures for the current year, with similar statements and estimates respecting the school fund. It shall show the indebtedness of the state and the balances standing at the end of the year to the credit of the several unexpired appropriations, specifying in each case the date when the appropriation was made. It shall also contain information relating to the salaries of state employees, including notation of salaries greater than $80,000 paid during the prior calendar year. The report shall be accompanied with an explanation of the amounts of receipts and disbursements and the balances and estimates reported. In it the Auditor shall point out any defects which may occur to him or her in the revenue laws. Furthermore, the Auditor shall suggest the remedies for those deficits. If the Auditor is of the opinion that the future revenue is likely to prove insufficient, then the Auditor shall recommend plans for increasing the revenue and suggest new subjects of taxation, or additional taxes on the old, as he or she may deem proper.

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§12-4-8. Office hours of Auditor and treasurer.

The hours for transacting business in the offices of the Auditor and treasurer shall be from eight-thirty in the morning until five o'clock in the afternoon.

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§12-4-9. Absence of Auditor or treasurer.

When it is necessary for either the Auditor or treasurer to be absent, the other shall be informed of the absence. During the absence, the duties of the officer so absent may be performed by the Auditor's or treasurer's designee respectively. The absent officer and his sureties shall be liable for any malconduct or neglect of the person acting in his or her place.

Notwithstanding restrictions which may otherwise be provided by law concerning membership on any board, agency or commission, the Auditor and treasurer each may designate a representative who is authorized to act for and on their behalf in any and all matters relating to those memberships.

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§12-4-10. State not preferred as to unsecured claim.

On and after February 1, 1933, the state shall not, by virtue of prerogative or any other right, have any priority or preference of any claim or demand in its favor which is not made a lien and given such priority and preference by statute, over any other unsecured or common creditor of any person, firm or corporation against the property or assets or any part thereof of the debtor.

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§12-4-11. Exceptional items fund.

(a) There is hereby created in the Treasurer's Office a special fund known as the "exceptional items fund" to be administered by the treasurer pursuant to the provisions of this section and rules and regulations established thereunder.

(b) The treasurer is authorized to make transfers to and from the exceptional items fund for the purpose of clearing irreconcilable items carried forward on his accounts with state depositories: Provided, That no transfer may be made as to any irreconcilable item in excess of $50 without the approval of the State Auditor.

(c) The treasurer and Auditor shall jointly promulgate rules and regulations establishing procedures and conditions for issuance of substitute checks to payees in cases where the checks originally issued are erroneous, or have been lost, mutilated, destroyed, stolen or forged. Any disbursements pursuant to such rules and regulations shall be made from the exceptional items fund. Any moneys received by the state from persons responsible for wrongfully cashing such originally issued checks shall be deposited in such fund.

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§12-4-12. Treasurer authorized to provide check-cashing service; establishment and audit of cash funds.

The treasurer may provide a check-cashing service at his or her office in the capitol building and may charge fees for the service for each check cashed and for each check returned for insufficient funds. For this purpose, he or she may establish from receipts in the treasury not more than two cash funds each in an initial amount not to exceed $100,000. The treasurer shall designate certain employees in his or her office who are to provide the service and have charge of the funds, and may require the employees to be bonded either individually or by blanket bonds. The cost of the bond or bonds shall be paid out of the treasurer's current expense appropriation.

The fees received for the service shall be deposited in the cash funds and itemized accounts of the receipts shall be maintained. Any check determined by the treasurer to be uncollectible shall be charged against the fund from which it was cashed. Before July 1, 2001 and at least every three fiscal years thereafter, the Legislative Auditor shall audit the cash funds and all accounts and records relating to the service provided pursuant to this section. If the amount of either cash fund, after charges for uncollectible checks, exceeds $100,000 at the conclusion of any audit, the treasurer shall transfer the excess to the General Revenue Fund.

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§12-4-13.

Repealed.

Acts, 1997 Reg. Sess., Ch. 95

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§12-4-14. West Virginia Grant Transparency and Accountability Act; Accountability of grantees receiving state funds or grants, procedures, reporting, auditing, investigations, and recovery; sworn statements by volunteer fire departments; rule making, criminal penalties.

(a) This section may be cited as the West Virginia Grant Transparency and Accountability Act. The West Virginia Grant Transparency and Accountability Act is intended to develop a coordinated, nonredundant process for the effective oversight and monitoring of state grant recipients, thereby ensuring quality programs and limiting fraud, waste, and abuse.

(b) For the purposes of this section:

(1) "Grantor" means a state spending unit awarding a state grant.

(2) "Grantee" means any entity receiving a state grant, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity.

(3) "Subgrantee" means an entity, including a state spending unit, local government, corporation, partnership, association, individual, or other legal entity, that receives grant money from a grantee that was awarded a state grant.

(4) "Report" means an engagement, such as an agreed-upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended. The term "report" does not mean a full-scope audit or review of the entity receiving the state grant.

(5) "State grant" means funding provided by a grantor, regardless of the original source of the funds, to a grantee upon application for a specific purpose. The term "state grant" does not include: (A) Payments for goods and services purchased by a state spending unit; (B) compensation to state employees and public officials; (C) reimbursements to state employees and public officials for travel or incidental expenses; (D) grants of student aid; (E) government transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G) funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds; (H) retirement benefits; (I) federal pass-through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 *et seq.*, and the funds required to match the federal funds; (J) distributions to volunteer and part-volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, §33-12C-7 of this code; (K) money received from the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code; and (L) grants made by the West Virginia Water Development Authority.

(6) "West Virginia debarred list" means the list maintained by the State Auditor that contains the names of individuals and entities that are ineligible, either temporarily or permanently, from receiving an award of state grant funds.

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(7) "State Auditor" means the State Auditor of West Virginia, by himself or herself, or by any person appointed, designated, or approved by the State Auditor to perform the service.

(8) "Stop payment order" means a communication from the grantor to the State Auditor and the State Treasurer, following procedures established by the State Auditor, causing the cessation of payments to a grantee or subgrantee as a result of the grantee or subgrantee's failure to comply with one or more terms of the state grant or subgrant, violations of law, or the initiation of an audit or investigation.

(9) "Stop payment procedure" means the procedure created by the State Auditor which effects a stop payment order or the lifting of a stop payment order.

(c)(1) Any grantee who receives one or more state grants in the amount of $50,000 or more in the aggregate in a state's fiscal year shall file with the grantor and the State Auditor a report of the disbursement of the state grant funds. When the grantor causes an audit, by an independent certified public accountant, to be conducted of the state grant funds, the audit is performed using generally accepted government auditing standards, and a copy of the audit is available for public inspection, no report is required to be filed under this section. An audit performed that complies with Office of Management and Budget circular A-133, and submitted within the period provided in this section, may be substituted for the report.

(2) Any grantee who receives a state grant in an amount less than $50,000, or who is not required to file a report because an audit has been conducted or substituted as provided by subdivision (1) of this subsection, shall file with the grantor and State Auditor a sworn statement of expenditures made under the state grant.

(3) Subgrant of state grant funds – If any grantee obtains state grant funds and grants any part, or all of those funds, to a subgrantee for a specific purpose or purposes, the granted funds shall be treated as a state grant.

(4) Reports and sworn statements of expenditures required by this section shall be filed within two years of the end of the grantee's fiscal year in which the disbursement of state grant funds by the grantor was made. The report shall be made by an independent certified public accountant at the cost of the grantee. State grant funds may be used to pay for the report if the applicable grant provisions allow. The scope of the report is limited to showing that the state grant funds were spent for the purposes intended when the state grant was made.

(5) In the event the State Auditor determines that applicable reporting or record-keeping provisions for state grants are delinquent or not in compliance with this code, the State Auditor shall notify the State Treasurer and no further state grant funds appropriated to the grantor under the specific state grant shall be encumbered or expended until such time as the State Auditor determines that all applicable reporting or record-keeping provisions are brought into compliance: *Provided*, That such suspension of funding does not violate federal law or regulations, or unreasonably prevent or detrimentally impact, the ability of the

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agency grantor to receive federal support or funding.

(6) Each grantor shall designate a Chief Accountability Officer, to the extent possible from within its existing staff, who shall serve as a liaison to the State Auditor, and shall be responsible for the grantor's implementation of, and compliance with, the law, rules, and terms of state grants. Such position may be held concurrently with any other designated position.

(d)(1) Grantors or the State Auditor shall issue stop payment orders for failure to file required reports. Any grantee failing to file a required report or sworn statement of expenditures within the two-year period as provided in this section for state grant funds, is barred from subsequently receiving state grants until the grantee has filed the report or sworn statement of expenditures and is otherwise in compliance with the provisions of this section.

(2) Any grantor shall report any grantee failing to file a required report or sworn statement of expenditures within the required period provided in this section to the State Auditor for purposes of debarment from receiving state grants.

(3) The State Auditor shall maintain a searchable and publicly accessible database listing all awarded state grants. All grantors shall provide a list of grantees and subgrantees to the State Auditor and all other information regarding state grant funds and grantees as required by law or rule.

(e)(1) The grantor administering the state grant shall notify the grantee of the reporting requirements set forth in this section.

(2) All grantors shall, prior to awarding a state grant, verify that the grantee is not barred from receiving state grants pursuant to this section. The verification process shall, at a minimum, include:

(A) A requirement that the grantee seeking the state grant provide a sworn statement from an authorized representative that the grantee has filed all reports and sworn statements of expenditures for state grants received as required under this section; and

(B) Confirmation from the State Auditor by the grantor that the grantee has not been identified as one who has failed to file a report or sworn statement of expenditures under this section. Confirmation may be accomplished by accessing the computerized database provided for in this section.

(3) If any report or sworn statement of expenditures submitted pursuant to the requirements of this section provides evidence of a reportable condition or violation, the grantor shall provide a copy of the report or sworn statement of expenditures to the State Auditor within 30 days of receipt by the grantor.

(4) The grantor and State Auditor shall maintain copies of reports and sworn statements of

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expenditures required by this section and make the reports or sworn statements of expenditures available for public inspection, as well as for use in audits and performance reviews of the grantor.

(5) Stop payment procedures – The State Auditor, in cooperation with grantors, shall promulgate legislative, procedural, and interpretive rules in accordance with the provisions of §29A-3-1 *et seq*. of this code in implementing the provisions of this section which shall include, but not be limited to:

(A) Procedures concerning issuing and lifting stop payments and other corrective actions;

(B) Factors to be considered in determining whether to issue a stop payment order including whether or not a stop payment order is in the best interest of the state;

(C) Factors to be considered in determining whether a stop payment order should be lifted; and

(D) Procedures for notification to the grantee or subgrantee of the issuance of a stop payment order, the lifting of a stop payment order, and any other related information.

(6) Informal Conference – Whenever a grantor reasonably believes that state grant funds are subject to recovery, the grantor shall provide the grantee the opportunity for at least one informal conference to determine the facts and issues and to resolve any conflicts before taking any formal recovery actions.

(7) Formal Procedures for Recovery –

(A) If a grantor determines that certain state grant funds are to be recovered, then, prior to taking any action to recover the state grant funds, the grantor shall provide the grantee of the funds a written notice of the intended recovery. This notice shall identify the funds and the amount to be recovered and the specific facts which permit recovery.

(B) A grantee shall have 35 days from the receipt of the notice required in paragraph (A) of this subdivision to return the state grant funds or request a hearing in writing to show why recovery is not justified or proper.

(C) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision, then:

(i) The hearing shall be conducted under §29A-5-1 *et seq*. of this code, and be presided over by the grantor director or their designee;

(ii) The grantor shall hold the hearing at which, the grantee or designated representative may present evidence and witnesses to show why recovery should not be permitted; and

(iii) After the conclusion of the hearing, the grantor shall make a final decision and issue a written final recovery order in compliance with §29A-5-3 of this code and send a copy of the

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order to the grantee and the State Auditor.

(D)(i) If a grantee requests a hearing pursuant to paragraph (B) of this subdivision, then the grantor may not take any action of recovery until at least 35 days after the grantor has issued a final recovery order pursuant to the requirements of paragraph (C) of this subdivision.

(ii) If a grantee does not return the state grant funds or request a hearing as permitted in paragraph (B) of this subdivision, then the grantor may proceed with recovery of the state grant funds identified in the notice issued pursuant to the requirements of paragraph (A) of this subdivision, at any time after the expiration of the 35 day request period established in paragraph (B) of this subdivision.

(8) Recovery of State Grant Funds by Grantor Agency – Any state grant funds which have been misspent or are being improperly held are subject to recovery by the grantor. The grantor shall take affirmative and timely action to recover all misspent or improperly held state grant funds. In order to effectuate the recovery of such state grant funds, the grantor may use any one, or a combination of, the following:

(A) Offset the amounts against existing state grants or future state grants to be made by the grantor making the recovery;

(B) Request offsets of the amounts from existing state grants or future state grants to be made by other grantors;

(C) Initiate any debt collection method authorized by law against any private person, business, or entity;

(D) Remove the grantee from the grantor programs and debar the grantee's participation in future state grant programs for a period not to exceed three years, or until removed from the West Virginia debarred list; or

(E) Request further action under subdivision (9) of this subsection to recover state grant funds and otherwise enforce all applicable laws.

(9) Recovery of State Grant Funds – The Attorney General, independently or on behalf of the State Auditor, may take any action within his or her authority to recover any state grant funds which have been misapplied or are being improperly held and have all the powers of collection established in this act in addition to any other powers authorized by law, including, without limitation, to file lawsuits to recover state grant funds.

(10) All state grant funds, whose use is not restricted by law or otherwise appropriated, which are recovered by the grantor, or State Auditor, and expired or unexpended state grant funds remaining at state grant completion or termination, shall be deposited in a special revenue fund, which is hereby created and established in the State Treasury to be known as the Grant Recovery Fund. The moneys in the fund, with all interest or other earnings

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thereon, shall be expended only upon appropriation by the Legislature.

(11) The State Auditor has authority to promulgate procedural and interpretive rules and propose legislative rules for promulgation in accordance with the provisions of §29A-3-1 *et seq*. of this code to assist in implementing the provisions of this section. The rules shall set forth uniform administrative requirements and reporting procedures for state grants and subgrants to ensure compliance. Grantors shall not impose additional or inconsistent requirements unless specifically required by state or federal law.

(12) Conflicts of interest – The State Auditor shall adopt rules regarding conflict of interest policies for state grants. Grantors, grantees, and subgrantees must disclose, in writing, any potential conflicts of interest to the grant applicant prior to awarding the state grant.

(f)(1) Any grantor administering a state grant shall, in the manner designated by the State Auditor, notify the State Auditor of the maximum amount of funds to be disbursed, the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal employer identification number, and the purpose and nature of the state grant within 30 days of making the state grant or authorizing the disbursement of the funds, whichever is later.

(2) The State Treasurer shall provide the Legislative Auditor the information concerning formula distributions to volunteer and part-volunteer fire departments, made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, the Legislative Auditor requests, and in the manner designated by the Legislative Auditor.

(3) The State Auditor shall maintain the West Virginia debarred list identifying grantees who have failed to file reports and sworn statements required by this section. The list shall be in the form of a computerized database that shall be accessible by grantors and the public over the Internet, unless public disclosure would violate federal law or regulations.

(g) An audit of state grant funds may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the State Auditor in cooperation with the Legislative Auditor at no cost to the grantee.

(h) Any report submitted pursuant to the provisions of this section may be filed electronically in accordance with the provisions of §39A-1-1 *et seq*. of this code.

(i) Any grantee who files a fraudulent sworn statement of expenditures under subsection (b) of the section, a fraudulent sworn statement under subsection (d) of this section, or a fraudulent report under this section, is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(j) Prohibition on use of state grant funds for prohibited political activity –

(1) For the purpose of this section, "prohibited political activity" means activity directed

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toward the success or failure of a political party, candidate for political office, or ballot issue, and includes, without limitation, express advocacy for the election or defeat of a political party, candidate, or ballot issue.

(2) Grantors, grantees, subgrantees, and personnel thereof shall not knowingly use state grant funds, or goods or services purchased with state grant funds, to engage, either directly or indirectly, in a prohibited political activity.

(3) Grantors, grantees, subgrantees and personnel thereof shall not be knowingly compensated from state grant funds for time spent engaging in a prohibited political activity.

(4) Nothing in this section shall prohibit any organization described in 26 U.S.C. § 501(c)(3) or 26 U.S.C. § 501(c)(4) receiving a state grant from engaging in any federally permissible activity regarding advocacy, indirect and direct lobbying, and political activity, provided that the specific funds acquired by a state grant or grantor shall not be used for those activities that are permitted by federal law but prohibited by this section.

(5) A grantor, grantee, subgrantee, or personnel thereof who knowingly uses state grant funds for prohibited political activity in violation of this section, is guilty of a felony and, upon conviction thereof, shall be fined not less than $1,000 nor more than $5,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(k) Reporting – Effective on or before December 31, 2022, and every three years thereafter, the State Auditor shall submit to the Joint Legislative Committee on Government and Finance a report that demonstrates the efficiencies, cost savings, and reductions in fraud, waste, and abuse. The report shall include, but not be limited to, facts describing:

(1) The number and names of entities placed on the West Virginia Debarred List;

(2) The number of stop payment orders issued to grantees;

(3) Any savings realized as a result of the implementation of this act;

(4) A statement of funds recovered and funds in the recovery process;

(5) Any reductions in the number of duplicative audit report reviews; and

(6) The overall number of state grants awarded that given year and the total amount of dollars awarded by each grantor.

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§12-4-14a. Workers' Compensation Subsidy for Volunteer Fire Departments; creation of program; Auditor to administer.

(a) For the purposes of this section:

(1) "Fiscal year" means the fiscal year of the state.

(2) "Individual base year premium" means the individual premium that became due and payable by a volunteer fire department after June 30, 2010, but before July 1, 2011.

(3) "Individual premium" means the workers' compensation insurance premium due and payable by a volunteer fire department for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire department in each twelve month period beginning on or after July 1, 2011.

(4) "Total base year premium" means the aggregate workers' compensation insurance premium due and payable by all volunteer fire departments for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire departments as determined by the Insurance Commissioner after June 30, 2010, but before July 1, 2011.

(5) "Total premium" means the aggregate workers' compensation insurance premium due and payable by all volunteer fire departments for fire fighting services, rapid response emergency medical services, ambulance services or diving services provided by the volunteer fire departments in each twelve month period beginning on or after July 1, 2011.

(b) In recognition of the burden of increasing workers' compensation insurance premiums on volunteer fire departments, the Legislature has determined that additional funding assistance should be made available to eligible departments to pay a portion of those premium increases beginning with invoices due and payable on or after July 1, 2011.

(c) There is hereby established a special program which shall be known as the "Volunteer Fire Department Workers' Compensation Subsidy Program." The program shall be administered by the State Auditor from moneys that may be appropriated and designated for the program by the Legislature pursuant to this section and section thirty-three-a, article three, chapter thirty-three of this code.

(d) The State Auditor shall administer the distribution of moneys appropriated for the Volunteer Fire Department Workers' Compensation Subsidy Program to volunteer fire departments to help defray workers' compensation insurance premium increases.

(1) Volunteer fire departments shall request supplemental funds by submitting to the Auditor the following information:

(A) The previous fiscal year's workers' compensation premium invoices with paid receipts;

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(B) The current fiscal year's workers' compensation premium invoices showing the amount due and due date and any applicable paid receipts; and

(C) Any other information the Auditor deems necessary for administering the subsidy on forms and schedules as the Auditor directs. The Auditor is authorized to set up an electronic filing system at his or her discretion for filing of the aforementioned information.

(2) After determining that there is a premium increase and the amount of the premium increase for the volunteer fire department requesting the subsidy, the Auditor shall make disbursements in the manner set forth in subsection (e) of this section subject to the following requirements:

(A) The volunteer fire department must be in good standing with the State Fire Marshal;

(B) The volunteer fire department must be registered with the Auditor's Office in a form and manner prescribed by the Auditor prior to being eligible for consideration of any subsidy, which registration must be completed no fewer than thirty days prior to the due date of the workers' compensation premium;

(C) The volunteer fire department must agree that the subsidy for its workers' compensation insurance premium increase will be paid directly to its insurance carrier by the Auditor and that it will timely pay the balance of the premium due; and

(D) Should a volunteer fire department fail to pay the balance of its workers' compensation insurance premium after a disbursement by the Auditor and that insurance policy is subsequently cancelled, the premium paid by the Auditor shall be returned directly to him or her. If the Auditor does not receive a reimbursement for a cancelled policy, he or she shall seek reimbursement for the subsidy portion of the insurance premium from the State Treasurer when the Treasurer makes the next quarterly payment to the volunteer fire department pursuant to sections thirty-three and fourteen-d, article three, chapter thirty-three of this code.

(e) Beginning with the fiscal year that starts July 1, 2011, and continuing in each fiscal year thereafter, after the Auditor has verified that a volunteer fire department is eligible for a subsidy pursuant to this section, he or she shall pay on behalf of a volunteer fire department its subsidy, which is calculated by:

(1) Dividing the total amount of premium subsidy allocated by the Legislature to the Volunteer Fire Department Workers' Compensation Subsidy Program by the total premium minus the total base year premium, which calculation produces the "total shortfall multiplier"; and

(2) Multiplying the total shortfall multiplier determined in subdivision (1) of this subsection by the individual premium less the individual base year premium.

(3) In no event shall a volunteer fire department receive a workers' compensation premium

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subsidy greater than one hundred percent of its premium increase.

(f) For fiscal years after July 1, 2011, the Auditor shall consult with the Insurance Commissioner to determine the total amount of workers' compensation premium due by volunteer fire departments for any subsequent fiscal year. The Auditor may determine payment dates based upon information reasonably available for such a determination.

(g) The Auditor may promulgate emergency rules and may propose for promulgation legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, as are necessary to provide for implementation and enforcement of the provisions of this section.

(h) The volunteer fire departments' workers' compensation premium subsidy program shall undergo a review to assess its effectiveness after three years of operation. The Auditor shall submit a report to the Joint Committee on Government and Finance not later than February 1, 2015, and provide details of the program operation including funds distributed and departments taking advantage of the subsidy.

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§12-4-14b. Accountability of volunteer and part-volunteer fire companies or departments receiving state funds for equipment and training; review or audit of expenditures; withholding of state funds for delinquency or misuse; notifications.

(a) *Definitions*. — For the purposes of this section:

"Equipment and training grant" means a grant of money to a volunteer fire company or a part-volunteer fire department from the Fire Service Equipment and Training Fund created in §29-3-5f of this code;

"Formula distribution" means a distribution of money to volunteer and part-volunteer fire companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code; and

"State funds accounts" means every bank account and investment account established by a volunteer or part-volunteer fire company or department into which the volunteer or part-volunteer fire company or department has deposited or invested money from formula distributions and equipment and training grants.

(b) *Filing required documentation.* — Every volunteer and part-volunteer fire company or department seeking to receive formula distributions or an equipment and training grant shall file copies of bank statements and check images from the company's or department's state funds accounts for the previous calendar year with the Legislative Auditor on or before February 1 of each year.

(c) *Reviews and audits*. — The Legislative Auditor is authorized to conduct regular reviews or audits of deposits and expenditures from formula distribution and equipment and training grant funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may assign an employee or employees to perform audits or reviews at his or her direction. The State Treasurer shall provide the Legislative Auditor information, in the manner designated by the Legislative Auditor, concerning formula distributions and equipment and training grants paid to volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire company or department shall cooperate with the Legislative Auditor, the Legislative Auditor's employees, and the State Auditor in performing their duties under the laws of this state.

(d) *State Auditor.* — Whenever the State Auditor performs an audit of a volunteer or part-volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit under this section.

(e) *Withholding of funds*. —The Treasurer is authorized to withhold payment of a formula distribution or an equipment and training grant from a volunteer or part-volunteer fire

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company or department, when properly notified by the Legislative Auditor pursuant to this section, of any of the following conditions:

(1) Failure to file, in a timely manner, copies of bank statements and check images with the Legislative Auditor;

(2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

(3) Misapplication of state funds; or

(4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14 of this code for a state grant other than an equipment and training grant.

(f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company or department has failed to file the required bank statements and check images with the Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at two separate times in writing of the delinquency and of possible forfeiture of its Fire Service Equipment and Training Fund distribution for the year. If the required bank statements and check images are not filed with the Legislative Auditor by March 31, unless the time period is extended by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department. Prior to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall notify each delinquent company or department twice per each quarter in which the company or department is delinquent. The Legislative Auditor may choose the method or methods of notification most likely to be received by the delinquent company or department.

(g) *Noncooperation*. — If, in the course of an audit or review by the Legislative Auditor, a volunteer or part-volunteer fire company or department fails to provide documentation of its accounts and expenditures in response to a request of the Legislative Auditor, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the company or department has cooperated with the review or audit.

(h) *Reporting of other grants.* — Nothing in this section alters the duties and responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-4-14 of this code if that company or department has received funds from any state grant program other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified by a grantor that a volunteer or part-volunteer fire company or department has failed to file a report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor shall notify the State Treasurer who shall withhold further distributions to the company or department in the manner provided in this section.

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(i) *Escrow and forfeiture of moneys withheld*. — The Volunteer Fire Department Audit Account previously created in the Treasury is hereby continued. When the State Treasurer receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the volunteer or part-volunteer fire company or department has come into compliance in less than one year from the date of deposit into this special revenue account, then the Treasurer shall release and distribute the withheld amounts to the company or department, except that any interest that has accrued thereon shall be credited to the general revenue of the state. If, after one year from payment of the amount withheld into the special revenue account, the Legislative Auditor informs the State Treasurer of continued noncooperation by the company or department, the delinquent company or department forfeits the amounts withheld and the State Treasurer shall pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of this code.

(j) Misuse of state money. — If the Legislative Auditor determines that a volunteer or part-volunteer fire company or department has used formula distribution money for purposes not authorized by §8-15-8b of this code or has used equipment and training grant money for purposes not authorized by the grant program, the Legislative Auditor shall give a written notice of noncompliance to the company or department. If a volunteer or part-volunteer fire company or department disagrees or disputes the finding, the company or department may contest the finding by submitting a written objection to the Legislative Auditor within five working days of receipt of the Legislative Auditor's finding. The department or company shall then have 60 days from the date of the Legislative Auditor's finding to provide documentation to substantiate that the expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company or department does not dispute the findings of the Legislative Auditor or if the company or department is not able to substantiate an authorized purpose for the expenditure, the Legislative Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall deduct that amount from future distributions to that company or department until the full amount of unauthorized expenditure is offset.

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§12-4-14c. Accountability of volunteer and part-volunteer fire companies or departments receiving state funds for equipment and training; review or audit of expenditures; withholding of state funds for delinquency or misuse; notifications.

(a) *Definitions*. — For the purposes of this section:

"Equipment and training grant" means a grant of money to a volunteer fire company or a part-volunteer fire department from the Fire Service Equipment and Training Fund created in §29-3-5f of this code;

"Formula distribution" means a distribution of money to volunteer and part-volunteer fire companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code; and

"State funds account" means a bank account established by a volunteer or part-volunteer fire company or department and maintained for the exclusive use and accounting of money from formula distributions and equipment and training grants.

(b) *Filing required documentation.* — Every volunteer and part-volunteer fire company or department seeking to receive formula distributions or an equipment and training grant shall file copies of bank statements and check images from the company's or department's state funds account for the previous calendar year with the Legislative Auditor on or before February 1 of each year.

(c) *Reviews and audits*. — The Legislative Auditor is authorized to conduct regular reviews or audits of deposits and expenditures from formula distribution and equipment and training grant funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may assign an employee or employees to perform audits or reviews at his or her direction. The State Treasurer shall provide the Legislative Auditor information, in the manner designated by the Legislative Auditor, concerning formula distributions and equipment and training grants paid to volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire company or department shall cooperate with the Legislative Auditor, the Legislative Auditor's employees, and the State Auditor in performing their duties under the laws of this state.

(d) *State Auditor.* — Whenever the State Auditor performs an audit of a volunteer or part-volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit under this section.

(e) *Withholding of funds*. —The Treasurer is authorized to withhold payment of a formula distribution or an equipment and training grant from a volunteer or part-volunteer fire company or department, when properly notified by the Legislative Auditor pursuant to this

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section, of any of the following conditions:

(1) Failure to file, in a timely manner, copies of bank statements and check images with the Legislative Auditor;

(2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

(3) Misapplication of state funds; or

(4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14 of this code for a state grant other than an equipment and training grant.

(f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company or department has failed to file the required bank statements and check images with the Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at two separate times in writing of the delinquency and of possible forfeiture of its Fire Service Equipment and Training Fund distribution for the year. If the required bank statements and check images are not filed with the Legislative Auditor by March 31, unless the time period is extended by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department. Prior to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall notify each delinquent company or department twice per each quarter in which the company or department is delinquent. The Legislative Auditor may choose the method or methods of notification most likely to be received by the delinquent company or department.

(g) *Noncooperation*. — If, in the course of an audit or review by the Legislative Auditor, a volunteer or part-volunteer fire company or department fails to provide documentation of its accounts and expenditures in response to a request of the Legislative Auditor, the Legislative Auditor shall notify the State Treasurer who shall withhold payment of any amount that would otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the company or department has cooperated with the review or audit.

(h) *Reporting of other grants.* — Nothing in this section alters the duties and responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-4-14 of this code if that company or department has received funds from any state grant program other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified by a grantor that a volunteer or part-volunteer fire company or department has failed to file a report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor shall notify the State Treasurer who shall withhold further distributions to the company or department in the manner provided in this section.

(i) *Escrow and forfeiture of moneys withheld*. — The Volunteer Fire Department Audit

Account previously created in the Treasury is hereby continued. When the State Treasurer receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the volunteer or part-volunteer fire company or department has come into compliance in less than one year from the date of deposit into this special revenue account, then the Treasurer shall release and distribute the withheld amounts to the company or department, except that any interest that has accrued thereon shall be credited to the general revenue of the state. If, after one year from payment of the amount withheld into the special revenue account, the Legislative Auditor informs the State Treasurer of continued noncooperation by the company or department, the delinquent company or department forfeits the amounts withheld and the State Treasurer shall pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of this code.

(j) *Misuse of state money.* — If the Legislative Auditor determines that a volunteer or part-volunteer fire company or department has used formula distribution money for purposes not authorized by §8-15-8b of this code or has used equipment and training grant money for purposes not authorized by the grant program, the Legislative Auditor shall give a written notice of noncompliance to the company or department. If a volunteer or part-volunteer fire company or department disagrees or disputes the finding, the company or department may contest the finding by submitting a written objection to the Legislative Auditor within five working days of receipt of the Legislative Auditor's finding. The department or company shall then have 60 days from the date of the Legislative Auditor's finding to provide documentation to substantiate that the expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company or department does not dispute the findings of the Legislative Auditor or if the company or department is not able to substantiate an authorized purpose for the expenditure, the Legislative Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall deduct that amount from future distributions to that company or department until the full amount of unauthorized expenditure is offset.

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§12-4-15. Bank at school.

(a) The State Treasurer may conduct a program in West Virginia public schools to educate students about banking activities and to encourage savings. Banking institutions under the jurisdiction of the West Virginia commissioner of banking may participate in the program by assisting the treasurer in developing and producing materials for use in the schools, opening savings accounts for students at the schools and receiving and accepting deposits at the schools.

(b) The State Treasurer may not implement the banking program in any school in a county unless he or she obtains permission from the county board of education and the principal of the school; and

(c) Nothing in this section shall be construed to require any professional or service employee to perform additional duties as a result of the establishment of the banking program.

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§12-4-16. Transfer of specified excess funds.

(a) The treasurer has authority to monitor all state funds and accounts created by the Legislature. The treasurer shall transfer, using the state's accounting system, the appropriate amount of excess funds whenever the Legislature has:

(1) Created a fund or account and provided that only a specified amount is allowed to remain in the fund or account from one fiscal year to another, or other specified period; and

(2) Required that excess amounts are to revert or be deposited into the General Revenue Fund, school fund or other specified fund or account.

(b)(1) If a statutory provision provides that only a specified amount is allowed to remain in a fund from one fiscal year to another, the treasurer shall transfer the excess amount, as of the date specified by the provision, no later than August 15, of each year and give written notice of the transfer to all spending units that are authorized to use the fund or account.

(2) If a statutory provision provides for the transfer of excess amounts at a time other than the end of a fiscal year, the treasurer shall transfer the specified excess amounts within fifteen days of the time provided.

(c) The treasurer shall file quarterly reports with the Joint Committee on Government and Finance setting forth the accounts and funds from which excess funds were transferred and the amounts transferred.

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§12-4-17. Retention and disposal of Treasurer's records.

The Treasurer shall develop procedures for the storage, retention and disposal of records filed with, submitted to or created by the Treasurer's office. The procedures shall comply with the requirements for state records, as defined in section three, article eight, chapter five-a of this code, and for the reproduction and preservation of essential state records, as defined in section four, article eight, chapter five-a of this code. Preservation duplicates, as defined in section three, article eight, chapter five-a of this code, shall be maintained in an unalterable readable electronic media in accordance with industry standards, reviewed for accuracy and indexed, and shall have the same force and effect as the original records whether the original records are in existence or not. The procedures shall provide for the maintenance of the confidentiality of the records and ensure the director of the division of archives and history receives the records the director identifies as having historic value. The Treasurer shall purchase the equipment and supplies needed for record retention as part of his or her electronic commerce activities: Provided, That this section shall not limit the responsibility of the Treasurer to provide all documents necessary for the State Auditor, the Department of Revenue and the State Tax Department to complete their duties.

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