

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959

ENROLLED

SENATE BILL NO. 21

(By Mr. Bean Mr President
and Mr Carrigan)

PASSED March 11 1959

In Effect From Passage



Filed in Office of the Secretary of State
of West Virginia

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JOE F. BURDETT
SECRETARY OF STATE

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Senate Bill No. 21

(By MR. BEAN, MR. PRESIDENT, AND MR. CARRIGAN)

[Passed March 11, 1959; in effect from passage.]

AN ACT to repeal sections eleven and twelve, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article nine by adding thereto a new section designated section nine-a; and to amend and reenact sections two, three, five, six, seven, eight and ten of said article nine, all relating to the supervision of public offices.

Be it enacted by the Legislature of West Virginia:

That sections eleven and twelve, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that said article nine be

further amended by adding thereto a new section designated section nine-a; and that sections two, three, five, six, seven, eight and ten of said article nine be amended and reenacted, all to read as follows:

Section 2. *How and by Whom System of Accounting*

2 *Prescribed.*—The chief inspector shall formulate, pre-
3 scribe and install a system of accounting and reporting in
4 conformity with the provisions of this article, which shall
5 be uniform for all local governmental offices or agencies
6 (including district offices and justices of the peace and
7 constables), and for all public accounts of the same class,
8 and which shall exhibit true accounts and detailed state-
9 ments for all public funds collected, received and ex-
10 pended for any purpose whatever by all local govern-
11 mental officers, employees or other persons. Such ac-
12 counts shall show the receipt, use and disposition of all
13 public property under their control, and the income (if
14 any) derived therefrom, and of all sources of such public
15 income, and the amounts due and received from each
16 source, all receipts, vouchers and other documents kept
17 or that may be required to be kept and necessary to iden-

18 tify and prove the validity of every transaction, and all
19 statements and reports made or required to be made for
20 the internal administration of the office to which they
21 pertain, and all reports published or that may be required
22 to be published for the information of the people regard-
23 ing any and all details of the financial administration of
24 such public affairs. The chief inspector shall also formu-
25 late, prescribe and install a system of accounting for the
26 civil accounts of the justices of the peace, which shall
27 exhibit true accounts and detailed statements of the serv-
28 ices rendered, the name and address of the persons for
29 whom rendered, the charges made and collected therefor
30 and such other information as may be necessary to iden-
31 tify the transaction. The system of accounting prescribed
32 and formulated by the chief inspector and any changes
33 made therein from time to time shall, before becoming
34 operative, be approved by the board of public works.

Sec. 3. Separate Accounts for Different Appropriations.

2 —Separate accounts shall be kept for every appropriation
3 or fund made or levied by a local governing body, show-
4 ing the date and manner of each payment made out of the

5 funds provided by such appropriation or levy, the name,
6 address and vocation of each person, organization, corpor-
7 ation or association to whom paid, and for what purpose
8 paid. Separate accounts shall be kept for each department,
9 public improvement, undertaking, institution and public
10 service industry under the jurisdiction of every local gov-
11 erning agency; and all service rendered by or property
12 transferred from one department, public improvement,
13 undertaking, institution or public service industry to an-
14 other shall be paid for at its true and full value by the de-
15 partment, public improvement, undertaking, institution
16 or public service industry receiving the same; and no de-
17 partment, public improvement, undertaking, institution
18 or public service industry shall benefit in any financial
19 manner whatever by an appropriation or fund made for
20 the support of another department, public improvement,
21 undertaking, institution or public service industry. All
22 unexpended balances or appropriations shall be trans-
23 ferred to the credit of the fund from which originally ap-
24 propriated or levied whenever the account with an appro-
25 priation is closed.

Sec. 5. *Reports to and by Chief Inspector.*—The chief inspector shall require from every local taxing agency financial reports covering a full period of each fiscal year, in accordance with the forms and methods prescribed by him, which shall be uniform for all accounts of the same class. Such reports shall contain an accurate statement in summarized form of all collections made by or receipts received by the officers from all sources, all accounts due the public but not collected, and of all expenditures for every purpose, and by what authority authorized, and also: (a) A statement of all costs of ownership and operation and of all income of each and every public service industry owned and operated by a municipality; (b) a statement of the entire public debt of every taxing body to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, the provisions made for the payment of the debt, together with such other information as may be required by the chief inspector. Such reports shall be certified as to their correctness by the chief inspector or by his assistant appointed by him for the purpose.

22 Their substance shall be published in a biennial volume
23 of comparative statistics that shall be issued for each class
24 of accounts at the expense of the state as a public docu-
25 ment, and shall be submitted by the chief inspector to the
26 governor for transmittal to the Legislature.

Sec. 6. Accounts and Reports by Local Public Officers.—

2 All local governing officers, departments, boards and com-
3 missions shall keep their financial accounts in records and
4 forms approved or prescribed by the chief inspector of
5 public offices and shall furnish promptly to the chief in-
6 spector of public offices such information and reports as
7 may be requested. Refusal or neglect to comply with the
8 requirements of this section shall subject the person of-
9 fending to removal from office. In case an officer or em-
10 ployee of a local governing agency collects or receives
11 funds for the account of a local governing agency of
12 which he is not an officer or employee, he shall remit to
13 the proper officer of the local governing agency for whose
14 account the collection was made or payment was received,
15 the full amount collected or received for the account of
16 such local governing agency.

Sec. 7. Examination Into Affairs of Local Public Officers.

2 —The chief inspector shall have power by himself, or by
3 any person appointed by him to perform the service, to
4 examine into all financial affairs of every local govern-
5 mental office or agency (including district offices) and
6 shall make such an examination at least once a year, if
7 practicable. On every such examination inquiry shall be
8 made as to the financial conditions and resources of the
9 agency having jurisdiction over the appropriations and
10 levies disbursed by the office, whether the requirements
11 of the constitution and statutory laws of the state and the
12 ordinances and orders of the agency have been properly
13 complied with, and also inquiry into the methods and ac-
14 curacy of the accounts, and as to such other matters as the
15 chief inspector may prescribe. He or any of his assistants
16 shall have power and may exercise all the authority to
17 issue subpoenas and compulsory process, and to direct the
18 service thereof by any constable or sheriff, to compel the
19 attendance of witnesses and the production of books and
20 papers before him at any designated time and place, se-
21 lected in their respective county, and to administer oaths.

22 If any person shall refuse to appear before said chief in-
23 spector or his assistants when required so to do, or shall
24 refuse to testify in regard to any matter or refuse to pro-
25 duce any books or papers in his possession or under his
26 control, he shall be guilty of a misdemeanor; and, upon
27 conviction thereof, shall be fined not more than one hun-
28 dred dollars and imprisoned not more than six months.
29 Wilful false swearing in such examinations shall be pun-
30 ishable as such. A report of each examination shall be
31 made in duplicate, one copy to be filed in the office of the
32 state tax commissioner and one in the auditing depart-
33 ment of the agency. If any such examination discloses
34 misfeasance, malfeasance or nonfeasance in office on the
35 part of any public officer or employee, a certified copy of
36 the report shall be filed with the proper legal authority
37 of the agency for such legal action as is proper in the
38 premises. Refusal, neglect, or failure on the part of the
39 proper legal authority of the agency to take prompt and
40 efficient legal action to carry into effect the findings of any
41 such examination, or to prosecute the same to a final con-
42 clusion, shall give to the chief inspector the right to insti-

43 tute the necessary proceedings, or to participate therein,
44 and to prosecute the same in any of the courts of the state,
45 to a final conclusion.

Sec. 8. *Cost of Services of Chief Inspector; Revolving*
2 *Fund.*—The cost of any service or act performed by the
3 chief inspector under the provisions of this article as to
4 any county or district office, officer or institution, shall be
5 paid by the county court of the county; the cost thereof
6 as to any board of education shall be paid by such board;
7 the cost thereof as to any municipal corporation shall be
8 paid by the authorities thereof: *Provided, That* in munici-
9 palities in which the total revenue from all taxes does not
10 exceed the sum of two thousand dollars annually, such
11 cost including the per diem and all actual costs and ex-
12 penses of such services shall not exceed the sum of one
13 hundred dollars. The cost of this service shall be the ac-
14 tual cost and expense of the service performed, including
15 transportation, hotel, meals, materials, per diem compen-
16 sation of deputies, assistants, clerical help and such other
17 costs as may be necessary to enable him to perform the
18 services required. The chief inspector shall render to the

19 agency liable for such cost a statement thereof as soon
20 after the same was incurred as practicable, and it shall be
21 the duty of such agency to allow the same, and cause it to
22 be paid promptly in the manner that other claims and ac-
23 counts are allowed and paid, and such total amount shall
24 constitute a debt against the local agency due the state.
25 Whenever there is in the state treasury a sum of money
26 due any such county court, board of education or municipi-
27 pality from any source, upon the application of the chief
28 inspector, the same shall be at once applied on the debt
29 aforesaid against the county court, board of education or
30 municipality, and the fact of such application of such fund
31 shall be reported by the auditor to the said county court,
32 board of education or municipality, which report shall
33 be a receipt for the amount therein named. All money re-
34 ceived by the chief inspector from this source shall be paid
35 into the state treasury, shall be deposited to the credit of
36 an account to be known as chief inspector's fund, and
37 shall be expended only for the purpose of covering the
38 cost of such services, unless otherwise directed by the
39 Legislature. The cost of any such examination, service or

40 act by the chief inspector made necessary, or such part
41 thereof as was made necessary, by the wilful fault of any
42 officer or employee, may be recovered by the chief in-
43 spector from such person, on motion, on ten days' notice
44 in any court having jurisdiction.

45 For the purpose of permitting payments to be made at
46 definite periods to deputy inspectors and assistants for per
47 diem compensation and expenses, there is hereby created
48 a revolving fund for the chief inspector's office. The fund
49 shall be accumulated and administered as follows:

50 (1) There shall be appropriated from the state fund
51 general revenue the sum of twenty-five thousand dollars
52 to be transferred to this fund to create a revolving fund
53 which, together with other payments into this fund as
54 provided in this article, shall constitute a fund to defray
55 the cost of this service.

56 (2) Payments received for the cost of services of the
57 chief inspector's office shall be deposited into this revolv-
58 ing fund, which shall be known as the chief inspector's
59 fund.

60 (3) Any appropriations made to this fund shall not be

61 deemed to have expired at the end of any fiscal period.

Sec. 9-a. *Public Inspection of Reports.*—All reports of
2 examinations and audits of public offices made in accord-
3 ance with the provisions of section seven of this article,
4 and the copies thereof, when filed in the office of the chief
5 inspector of public offices or in the office of the state tax
6 commissioner, shall be public documents and shall be
7 available for public inspection.

Sec. 10. *Statutory References.*—Whenever any statute
2 refers to an audit or examination of a state department or
3 agency by the tax commissioner or inspector and/or
4 supervisor of public officers, if within the prescribed func-
5 tions and duties of the legislative auditor in making post
6 audit of such state department or agency, and in order
7 to avoid duplication, the reference shall be deemed to be
8 made to the legislative auditor to whom such functions
9 and duties have been transferred.

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

W. J. Jasper Jr.
Chairman Senate Committee

Eudora Andrews
Chairman House Committee

Originated in the Senate.

Takes effect *From* passage.

J. Howard Thayer
Clerk of the Senate

C. G. Blankenship
Clerk of the House of Delegates

Ralph W. Bean
President of the Senate

F. R. Pauley
Speaker House of Delegates

The within *retroced* this the *20th*
day of *March*, 1959.

Governor

