

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

SENATE BILL NO. 19

(By Mr. Carson, Mr. President)

PASSED March 7th 1961

In Effect July 1st 1961 Passage



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Senate Bill No. 19

(By MR. CARSON, MR. PRESIDENT)

[Passed March 7, 1961; in effect July 1, 1961.]

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; to amend and reenact sections two, three, five, six, seven and eight of said article nine; and to further amend said article nine by adding thereto two new sections designated sections nine-a and ten, 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twelve, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that sections two, three, five, six, seven and eight of said article nine be amended and re-

enacted; and that said article nine be further amended by adding thereto two new sections designated sections nine-a and ten, 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 offices, employees or other persons. Such accounts
12 shall show the receipt, use and disposition of all public
13 property under their control, and the income (if any)
14 derived therefrom, and of all sources of such public in-
15 come, and the amounts due and received from each source,
16 all receipts, vouchers and other documents kept or that
17 may be required to be kept and necessary to identify and
18 prove the validity of every transaction, and all statements

19 and reports made or required to be made for the internal
20 administration of the office to which they pertain, and all
21 reports published or that may be required to be published
22 for the information of the people regarding any and all
23 details of the financial administration of such public
24 affairs. The chief inspector shall also formulate, prescribe
25 and install a system of accounting for the civil accounts
26 of the justices of the peace, which shall exhibit true ac-
27 counts and detailed statements of the services rendered,
28 the name and address of the persons for whom rendered,
29 the charges made and collected therefor and such other
30 information as may be necessary to identify the trans-
31 action.

32 The system of accounting prescribed and formulated
33 by the chief inspector and any changes made therein from
34 time to time shall, before becoming operative, be approved
35 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, cor-
7 poration or association to whom paid, and for what pur-
8 pose paid. Separate accounts shall be kept for each de-
9 partment, public improvement, undertaking, institution
10 and public service industry under the jurisdiction of every
11 local governing agency; and all service rendered by or
12 property transferred from one department, public im-
13 provement, undertaking, institution or public service in-
14 dustry to another shall be paid for at its true and full
15 value by the department, public improvement, under-
16 taking, institution or public service industry receiving
17 the same; and no department, public improvement, under-
18 taking, institution or public service industry shall benefit
19 in any financial manner whatever by an appropriation
20 or fund made for the support of another department,
21 public improvement, undertaking, institution or public
22 service industry. All unexpended balances or appropria-
23 tions shall be transferred to the credit of the fund from
24 which originally appropriated or levied whenever the
25 account with an appropriation is closed.

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

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

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
4 and forms approved or prescribed by the chief inspector
5 of public offices and shall furnish promptly to the chief
6 inspector of public offices such information and reports
7 as may be requested. Refusal or neglect to comply with
8 the requirements of this section shall subject the person
9 offending to removal from office. In case an officer or
10 employee 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 inquire into the methods and
14 accuracy of the accounts, and as to such other matters of
15 audit and accounting as the chief inspector may prescribe.
16 He or any of his assistants shall have power and may exer-
17 cise all the authority to issue subpoenas and compulsory
18 process, and to direct the service thereof by any constable
19 or sheriff, to compel the attendance of witnesses and the

20 production of books and papers before him at any desig-
21 nated time and place, selected in their respective county,
22 and to administer oaths. If any person shall refuse to ap-
23 pear before said chief inspector or his assistants when re-
24 quired so to do, or shall refuse to testify in regard to any
25 matter or refuse to produce any books or papers in his
26 possession or under his control, he shall be guilty of a mis-
27 demeanor, and, upon conviction thereof shall be fined not
28 more than one hundred dollars and imprisoned not more
29 than six months. Wilful false swearing in such examina-
30 tions shall be punishable as such. A report of each exami-
31 nation shall be made in duplicate, one copy to be filed in
32 the office of the state tax commissioner and one in the
33 auditing department of the agency. If any such examina-
34 tion discloses misfeasance, malfeasance or nonfeasance in
35 office on the part of any public officer or employee, a
36 certified copy of the report shall be filed with the proper
37 legal authority of the agency for such legal action as is
38 proper in the premises. Refusal, neglect, or failure on the
39 part of the proper legal authority of the agency to take
40 prompt and efficient legal action to carry into effect the

41 findings of any such examination, or to prosecute the
42 same to a final conclusion, shall give to the chief inspector
43 the right to institute the necessary proceedings, or to
44 participate therein, and to prosecute the same in any of
45 the courts of the state, 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
5 be 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 mu-*
9 *nicipalities in which the total revenue from all taxes does*
10 *not exceed the sum of two thousand dollars annually,*
11 *such cost including the per diem and all actual costs and*
12 *expenses of such services shall not exceed the sum of*
13 *sixty 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 them 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
21 be the duty of such agency to allow the same, and cause
22 it to be paid promptly in the manner that other claims
23 and accounts are allowed and paid, and such total amount
24 shall constitute a debt against the local agency due the
25 state. Whenever there is in the state treasury a sum of
26 money due any such county court, board of education or
27 municipality from any source, upon the application of the
28 chief inspector, the same shall be at once applied on the
29 debt aforesaid against the county court, board of educa-
30 tion or municipality, and the fact of such application of
31 such fund shall be reported by the auditor to the said
32 county court, board of education or municipality, which
33 report shall be a receipt for the amount therein named.
34 All money received by the chief inspector from this source
35 shall be paid into the state treasury, shall be deposited to
36 the credit of an account to be known as chief inspector's
37 fund and shall be expended only for the purpose of cov-

38 ering the cost of such services, unless otherwise directed
39 by the legislature. The cost of any such examination,
40 service or act by the chief inspector made necessary, or
41 such part thereof as was made necessary, by the wilful
42 fault of any officer or employee, may be recovered by the
43 chief inspector from such person, on motion, on ten days'
44 notice 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
47 per diem compensation and expenses, there is hereby cre-
48 ated a revolving fund for the chief inspector's office. The
49 fund 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
3 or agency by the tax commissioner or inspector and/or
4 supervisor of public offices, 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 to
7 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.

Harmon Davis, Jr.
Chairman Senate Committee

Mrs. H. H. Withers
Chairman House Committee

Originated in the Senate.

Takes effect

July 1st 1961

passage.

Harmon Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Harvard W. Carson
President of the Senate

Julius W. Singleton Jr.
Speaker House of Delegates

The within *approved* this the *17th*
day of *March*, 1961.

W. M. Baum
Governor