WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1322

(By Mr. Smith and Mr. Bundle)

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Passed March 13, 1982

In Effect Ninety Days From Passage
AN ACT to amend and reenact section seven, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring the state tax commissioner, as chief inspector of public offices, to take certain bids on municipal audits from private accountants and to contract with said accountants for said audits in certain situations where less costly.

Be it enacted by the Legislature of West Virginia:

That section seven, article nine, chapter six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9. SUPERVISION OF PUBLIC OFFICES.

§6-9-7. Examinations into affairs of local public officers.

1 (a) The chief inspector shall have power by himself, or by any person appointed by him to perform the service, to examine into all financial affairs of every local governmental office or political subdivision and all boards, commissions, authorities, agencies or other offices created under authority thereof and shall make such an examination at least once a year, if practicable. On every such examination, inquiry
shall be made as to the financial conditions and resources of
the agency having jurisdiction over the appropriations and
levies disbursed by the office and whether the requirements
of the constitution and statutory laws of the state and the
ordinances and orders of the agency have been properly
complied with and also inquire into the methods and ac-
curacy of the accounts and such other matters of audit and
accounting as the chief inspector may prescribe. He or
any authorized assistant may issue subpoenas and compulsory
process, direct the service thereof by any sheriff, compel the
attendance of witnesses and the production of books and
papers at any designated time and place, selected in their
respective county, and administer oaths. If any person re-
fruses to appear before the chief inspector or his authorized
assistant when required so to do, refuses to testify on any
matter or refuses to produce any books or papers in his
possession or under his control, he is guilty of a misdemeanor,
and, upon conviction thereof, shall be fined not more than
one hundred dollars and imprisoned in the county jail not
more than six months. Willful false swearing in such examina-
tions is punishable as such. A report of each examination
shall be made in duplicate, one copy to be filed in the office
of the state tax commissioner and one in the auditing depart-
ment of the agency. If any such examination discloses mis-
feasance, malfeasance or nonfeasance in office on the part
of any public officer or employee, a certified copy of the
report shall be filed with the proper legal authority of the
agency, the prosecuting attorney of the county wherein the
agency is located and with the attorney general for such legal
action as is proper. At the time of the filing of such certified
audit, the chief inspector shall notify the proper legal au-
thority, the prosecuting attorney and the attorney general in
writing of his recommendation as to the legal action that
the chief inspector considers proper, whether criminal prose-
cution or civil action to effect restitution, or both. If the
proper legal authority or prosecuting attorney, within nine
months of the receipt of such certified audit and recommen-
dations, refuses, neglects or fails to take efficient legal action
by a civil suit to effect restitution or by prosecuting criminal
proceedings to a final conclusion, in accordance with such
recommendations, the chief inspector may institute the necessary proceedings or participate therein and prosecute the proceedings in any court of the state to a final conclusion.

(b) When requested by the governing body of a municipality, the chief inspector shall take bids on the audit of that municipality, and if he finds that a reputable certified public accountant or registered public accountant outside the state tax department can conduct the audit at a cost lower than if the department did it, and if said accountant meets all criteria set forth by chief inspector, he shall contract with such accountant for such audit: Provided, That the chief inspector may elect to conduct the audit of a municipality with one or more members of his audit staff where, in the opinion of the chief inspector, a special or unusual situation exists.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within bill is approved this the 30th day of March, 1982.

Governor