

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1982



ENROLLED

SENATE BILL NO. 22

(By Mr. Lon Rodick & Mr. Tomlin)



PASSED March 1, 1982

In Effect July 1, 1983 ~~Passage~~



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Senate Bill No. 22

(BY MR. TONKOVICH AND MR. TOMBLIN)

[Passed March 1, 1982; in effect July 1, 1983.]

AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven; to amend and reenact sections ten and twenty-six, article two, chapter five-a of said code; and to amend and reenact section two, article two, chapter twelve of said code, all relating to legislative appropriation of federal funds; declaring legislative findings and purpose; defining terms; requiring certain federal funds to be deposited in the state treasury and credited to special fund accounts upon receipt; requiring the governor to itemize in the state budget and the budget bill, by line item, separately, for each spending unit, the amount and purpose of all federal funds received or anticipated, with a reference to the account number, line item and amount of any state funds required for such purpose; requiring federal revenue sharing funds to be itemized in a separate section of the state budget and the budget bill devoted exclusively to such proposed appropriations; prohibiting the expenditure of certain federal funds without specific appropriations by the Legislature; allowing the governor, under specified circumstances, to authorize expenditure of certain federal funds, and to seek the recommendation of the legislative joint committee on government and finance; providing exclusions from this article for certain federal funds; providing that the provisions of this article prevail over any conflicting statutory provisions; specifying date that tentative budget be submitted to governor and copy to legislative auditor, providing copies of tentative budget,

upon request, to members of the Legislature; and requiring agency requests to the federal government for personal services funds to include funds for the cost of fringe benefits related to such personal services.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 4. THE LEGISLATURE.

ARTICLE 11. LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS.

§4-11-1. Legislative findings and purpose.

1 The Legislature finds and declares that in order to
2 carry out its responsibility for the enactment of all ap-
3 propriations needed for the operation of state govern-
4 ment, the Legislature needs continuous and accurate
5 accounts of the amounts and purposes of all federal
6 funds being requested, received or expended by the
7 various agencies and departments of the state. The
8 Legislature further finds and declares that the increased
9 availability of and reliance on federal financial as-
10 sistance has a substantial impact upon the programs,
11 priorities and fiscal affairs of the state. It is the pur-
12 pose of this article to clarify and specify the role of the
13 Legislature in appropriating federal funds received by
14 the state and in prescribing, by general law, the required
15 form and detail of the itemization and classification of
16 proposed appropriations to assure that state purposes
17 are served and legislative priorities are adhered to by
18 the acceptance and use of such funds.

§4-11-2. Definitions.

1 As used in this article:
2 (1) "Federal funds" means any financial assistance
3 made to a spending unit by the United States government,

4 whether a loan, grant, subsidy, augmentation, reimburse-
 5 ment or any other form of such assistance, including
 6 “federal-matching funds”;

7 (2) “Federal-matching funds” means federal funds of a
 8 specified amount or proportion for which a specified out-
 9 lay of state contributions, including funds, property or
 10 services, are required as a condition for receipt or expend-
 11 iture;

12 (3) “Spending unit” means the state of West Virginia
 13 and all agencies, offices, departments, divisions, boards,
 14 commissions, councils, committees or other entities of the
 15 state government for which an appropriation is requested
 16 or to which an appropriation is made by the Legislature.
 17 “Spending Unit” does not mean any county, city, town-
 18 ship, public service district or other political subdivision
 19 of the state; and

20 (4) “State-matching funds” means state contributions,
 21 including funds, property or services that are required by
 22 the federal government, by law or regulation, as a condi-
 23 tion for receipt or expenditure of federal funds.

**§4-11-3. Receipt of federal funds and required deposit in state
 treasury.**

1 Unless contrary to federal law, all federal funds re-
 2 ceived by a spending unit shall be deposited in and
 3 credited to special fund accounts as provided by section
 4 two, article two, chapter twelve of this code and shall be
 5 available for appropriation by the Legislature as part of
 6 the state budget.

**§4-11-4. Inclusion of federal funds in state budget and the bud-
 get bill.**

1 Pursuant to article one-a, chapter five, and chapter
 2 five-a of this code, the governor shall itemize in the state
 3 budget and in the budget bill, on a line-item basis,
 4 separately, for each spending unit, the amount and pur-
 5 pose of all federal funds received or anticipated for
 6 expenditure, with a reference to the account number, line
 7 item and amount of any state funds required for such
 8 purpose: *Provided*, That all federal revenue sharing funds
 9 shall be so itemized in a separate section of the state

10 budget and the budget bill devoted exclusively to pro-
11 posed appropriations from the revenue sharing trust fund.

§4-11-5. Legislative appropriation authority.

1 (a) No spending unit may make expenditures of any
2 federal funds, whether such funds are advanced prior to
3 expenditure or as reimbursement, unless such expendi-
4 tures are made pursuant to specific appropriations by the
5 Legislature, except as may be hereinafter provided.

6 (b) To the extent not precluded by the terms and con-
7 ditions under which federal funds are made available to
8 the spending unit by the United States government, the
9 spending unit shall use federal funds in accordance with
10 any purposes, policies or priorities the Legislature may
11 have established for the activity being assisted or for the
12 use of state, federal and other fiscal resources in a par-
13 ticular fiscal year.

14 (c) If the federal funds received by a spending unit
15 for a specific purpose are greater than the amount of
16 such funds contained in the appropriation by the Legis-
17 lature for such purpose, the total appropriation of federal
18 funds and any state-matching funds for such purpose
19 shall remain at the level appropriated, except as herein-
20 after provided.

21 (d) If federal funds become available to the spending
22 unit for expenditure while the Legislature is not in
23 session and the availability of such funds could not rea-
24 sonably have been anticipated and included in the budget
25 approved by the Legislature for the next fiscal year, the
26 treasurer may accept such funds on behalf of the spending
27 unit and the governor may authorize, in writing, the ex-
28 penditure of such funds by the spending unit during that
29 fiscal year as authorized by federal law and pursuant to
30 the provisions of article two of chapter five-a of the code
31 which permits expenditure of amounts in excess of the
32 appropriation upon the filing of a proper expenditure
33 schedule: *Provided*, That the governor may not authorize
34 the expenditure of such funds received for the creation of
35 a new program or for a significant alteration of an exist-
36 ing program. Should a question arise concerning whether

37 such expenditures would constitute a new program or
38 significant alteration of an existing program, while the
39 Legislature is not in session, the governor shall seek the
40 recommendation of the joint committee on government
41 and finance of the Legislature. Upon application to the
42 federal government for such funds and upon receipt
43 of such funds, the governor shall submit to the legis-
44 lative auditor two copies of a statement:

45 (1) Describing the proposed expenditure of such funds
46 in the same manner as it would be described in the state
47 budget; and

48 (2) Explaining why the availability of such federal
49 funds and why the necessity of their expenditure could
50 not have been anticipated in time for such expenditures
51 to have been approved as part of the adopted budget for
52 that particular fiscal year.

§4-11-6. Exclusions.

1 The following are excluded from the provisions of
2 this article:

3 (1) Federal funds received by state institutions of
4 higher education or by students or faculty members of
5 such institutions for instructional or research purposes
6 and federal funds received for student scholarships or
7 grants-in-aid;

8 (2) Federal nondiscretionary pass-through funds which
9 are earmarked in specified amounts or proportions for
10 transmittal to local political subdivisions or to designated
11 classes of organizations and individuals which do not
12 require state-matching funds and do not permit discre-
13 tion in their distribution by the receiving state spending
14 unit;

15 (3) Federal funds made available to the state for costs
16 and damages resulting from natural disasters, civil dis-
17 obedience or other occurrences declared by the governor
18 as a state of emergency; and

19 (4) All federal funds received by the West Virginia
20 department of highways or the West Virginia commis-
21 sioner of highways.

§4-11-7. Conflict with other statutory provisions.

1 If there is any conflict between the provisions of this
2 article and any other provision of this code relating to
3 receiving or expending federal funds, the provisions of
4 this article shall govern and control.

**CHAPTER 5A. DEPARTMENT OF FINANCE AND
ADMINISTRATION.**

ARTICLE 2. BUDGET DIVISION.

**§5A-2-10. Preparation of tentative budget and submission to
governor; copies to Legislature.**

1 The commissioner shall prepare for the consideration
2 of the governor a tentative budget for the fiscal year
3 next ensuing. The budget shall state actual receipts
4 and expenditures for the fiscal year next preceding,
5 estimated receipts and expenditures for the current
6 fiscal year, recommended expenditures for the current
7 fiscal year as shown in the legislative digest, and it shall
8 state also the requested amounts or estimates for the
9 fiscal year next ensuing with respect to:

10 (1) Appropriations requested by each spending unit
11 and requested general appropriations;

12 (2) The amount of the total of each appropriation to
13 be paid out of collections;

14 (3) Amounts and purposes of appropriations requested
15 other than for spending units of the state;

16 (4) Revenue of each of the funds of the state;

17 (5) A summary statement of requests and revenues
18 showing the amount of an anticipated surplus or deficit;

19 (6) Balances carried forward to the first day of July,
20 from the fiscal year next preceding on all reappropriated
21 accounts from general revenue fund and general school
22 fund;

23 (7) Percentage of increase or decrease by comparison
24 of recommended appropriation for next ensuing year
25 with current fiscal year.

26 On or before the fifth day of December, the commis-
27 sioner shall submit the tentative budgets to the governor.
28 The commissioner shall convey to the governor all ex-

29 planatory and justification statements and statements
30 of personnel requirements of spending units as reported
31 and filed in his office, together with the certification of the
32 state treasurer verifying the condition of the state
33 revenues and the several funds of the state as required
34 to be provided to the commissioner under the provisions
35 of section three, article four, chapter twelve of this
36 code.

37 At the time the commissioner submits the tentative
38 budget to the governor, he shall also submit copies
39 thereof to the president of the Senate, the speaker of
40 the House of Delegates, the legislative auditor and to any
41 member of the Legislature who shall request a copy. At
42 any time thereafter that additional data supplementary
43 to the tentative budget is received by the commissioner,
44 which data or change is not an integral part of the prep-
45 aration of the proposed budget of the governor, the com-
46 missioner shall submit a copy thereof to the legislative
47 auditor.

**§5A-2-26. Approval by commissioner of requests for federal
aid; copies to legislative auditor; consolidated
report of federal funds.**

1 Every agency of the state government when making
2 requests or preparing budgets to be submitted to the
3 federal government for funds, equipment, material or
4 services, the grant or allocation of which is conditioned
5 upon the use of state matching funds, shall have such
6 request or budget approved in writing by the commis-
7 sioner before submitting it to the proper federal author-
8 ity. At the time such agency submits such a request or
9 budget to the commissioner for his approval, it shall send
10 a copy thereof to the legislative auditor. When such fed-
11 eral authority has approved the request or budget, the
12 agency of the state government shall resubmit it to the
13 commissioner for recording before any allotment or en-
14 cumbrance of the federal funds can be made and the
15 commissioner shall send a copy of the federally approved
16 request or budget to the legislative auditor. Whenever
17 any agency of the state government shall receive from

18 any agency of the federal government a grant or alloca-
19 tion of funds which do not require state matching, the
20 state agency shall report to the commissioner and the
21 legislative auditor for their information the amount of the
22 federal funds so granted or allocated.

23 Unless contrary to federal law, any agency of state
24 government, when making requests or preparing budgets
25 to be submitted to the federal government for funds for
26 personal services, shall include in such request or budget
27 the amount of funds necessary to pay for the cost of any
28 fringe benefits related to such personal service. For the
29 purposes of this section, "fringe benefits" means any
30 employment benefit granted by the state which involves
31 state funds, including, but not limited to, contributions to
32 insurance, retirement and social security, and which does
33 not affect the basic rate of pay of an employee.

34 In addition to the other requirements of this section,
35 the commissioner shall, as soon as possible after the end of
36 each fiscal year but no later than the first day of October
37 of each year, submit to the governor and the legislative
38 auditor a consolidated report which shall contain a de-
39 tailed itemization of all federal funds received by the
40 state during the preceding and current fiscal years, as
41 well as those scheduled or anticipated to be received
42 during the next ensuing fiscal year. Such itemization shall
43 show: (a) Each spending unit which has received or is
44 scheduled or expected to receive federal funds in either of
45 such fiscal years, (b) the amount of each separate grant or
46 distribution received or to be received, (c) a brief de-
47 scription of the purpose of every such grant or other dis-
48 tribution, with the name of the federal agency, bureau or
49 department making such grant or distribution: *Provided*,
50 That it shall not be necessary to include in such report an
51 itemization of federal revenue sharing funds deposited in
52 and appropriated from the revenue sharing trust fund, or
53 federal funds received for the benefit of the department of
54 highways and the state road fund.

55 The commissioner is authorized and empowered to ob-
56 tain from the spending units any and all information
57 necessary to prepare such report.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE STATE OR ANY POLITICAL SUBDIVISION.****§12-2-2. Itemized record of moneys received for deposit; regulations governing deposits; credit to state fund; exceptions.**

1 All officials and employees of the state authorized by
2 statute to accept moneys due the state of West Virginia
3 shall keep a daily itemized record of such moneys so re-
4 ceived for deposit in the state treasury and shall deposit
5 within twenty-four hours with the state treasurer all
6 moneys received or collected by them for or on behalf of
7 the state for any purpose whatsoever. The treasurer shall
8 promulgate rules and regulations, in accordance with the
9 provisions of chapter twenty-nine-a of this code govern-
10 ing the procedure for such deposits. When so paid, such
11 moneys shall be credited to the state fund and treated by
12 the auditor and treasurer as part of the general revenue
13 of the state: *Provided*, That all moneys received out of
14 appropriations made by the Congress of the United States
15 shall be carried in special fund accounts, apart from the
16 general revenues, of the state, in the state treasury and
17 all such moneys shall not be used for any purpose what-
18 soever unless and until authorized and directed by the
19 Legislature, excepting the following funds which shall be
20 carried in separate accounts:

21 (a) All funds excluded by the provisions of section six,
22 article eleven, chapter four of this code;

23 (b) All funds derived from the sale of farm and dairy
24 products from farms operated by any agency of state
25 government other than the farm management commis-
26 sion;

27 (c) All endowment funds, bequests, donations, execu-
28 tive emergency funds, and death and disability funds;

29 (d) All fees and funds collected at state educational
30 institutions for student activities;

31 (e) All funds derived from collections from dormito-
32 ries, boardinghouses, cafeterias and road camps;

33 (f) All moneys received from counties by institutions
34 for the deaf and blind on account of clothing for indigent
35 pupils;

36 (g) All insurance collected on account of losses by fire
37 and refunds;

38 (h) All funds derived from bookstores and sales of
39 blank paper and stationery, and collections by the chief
40 inspector of public offices;

41 (i) All moneys collected and belonging to the capitol
42 building fund, state road fund, state road sinking funds,
43 general school fund, school fund, state fund (moneys
44 belonging to counties, districts and municipalities), state
45 interest and sinking funds, state compensation funds, the
46 fund maintained by the public service commission for the
47 investigation and supervision of applications and all
48 funds and moneys payable to or received by the natural
49 resources commission of West Virginia;

50 (j) All moneys collected or received under any act of
51 the Legislature providing that funds collected or received
52 thereunder shall be used for specific purposes.

53 All moneys, excepted as aforesaid, shall be paid into
54 the state treasury in the same manner as collections not so
55 excepted, and shall be carried in separate accounts to be
56 used and expended only for the purposes for which the
57 same are authorized to be collected by law. The gross
58 amount collected in all cases shall be paid into the state
59 treasury, and commissions, costs and expenses of collec-
60 tion authorized by general law to be paid out of the gross
61 collection are hereby authorized to be paid out of the
62 moneys collected and paid into the state treasury in the
63 same manner as other payments are made from the state
64 treasury.

65 The official or employee making such deposits in the
66 state treasury shall prepare such deposit lists in such
67 manner and upon such report forms as may be prescribed
68 by the treasurer. The original of this report shall accom-
69 pany the deposit to the treasurer's office. Certified or
70 receipted copies shall be immediately forwarded by the
71 state treasurer to the state auditor and to the commis-
72 sioner of finance and administration, and a copy shall be

73 kept by the official or employee making the report and
74 shall become a part of his permanent record.

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

L. F. Bayler
Chairman Senate Committee

Tony E. Whitlow
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1983.

Todd C. Wulke
Clerk of the Senate

VA Blankenship
Clerk of the House of Delegates

Warren P. McSwain
President of the Senate

Walter H. Lee, Jr.
Speaker House of Delegates

The within *is disapproved* this the *10*

day of *March*, 1982.

John R. Roper
Governor

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SECY. OF STATE