ENROLLED

Committee Substitute for

SENATE BILL NO. 456

(By Senators Bowman and McKenzie)

PASSED March 13, 2004

In Effect 90 days from Passage
AN ACT to amend and reenact §12-4-14 of the code of West Virginia, 1931, as amended, relating to requiring state agencies administering funds or grants to notify grantees of certain audit reporting requirements; barring grantees not complying with reporting requirements from subsequently receiving funds or grants; and allowing audits to be filed electronically.

Be it enacted by the Legislature of West Virginia:

That §12-4-14 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-14. Audits of corporations, associations or other organizations which receive state funds or grants.
(a) Any corporation, association or other organization in West Virginia that is not a local government as defined in section one-a, article nine, chapter six of this code and which receives state funds or grants in the amount of fifteen thousand dollars or more shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantor and shall be made by an independent certified public accountant at the cost of the grantee and show that the funds or grants were spent for the purposes intended when the grant was made. The state agency administering the funds or grants shall notify the grantee of the reporting requirements set forth in this section. A grantee failing to file a required audit within the two-year time period is barred from subsequently receiving state funds or grants until the grantee has filed the audit and is otherwise in compliance with the provisions of this section.

(b) Audits of state funds or grants under fifteen thousand dollars may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office, at no cost to the grantee: Provided, That volunteer fire departments satisfy the audit requirements of this section by submitting a sworn statement of annual expenditures to the legislative auditor's office, along with a filing fee of seventy-five dollars, on or before the fourteenth day of February of each year, if the volunteer fire department elects not to be audited. The sworn statement of expenditures shall be signed by the chief or director of the volunteer fire department, and shall be made under oath and acknowledged before a notary public. An additional filing fee of twenty-five dollars shall be included with the sworn statement of annual expenditures if the statement is submitted between the fifteenth day of February and the fifteenth day of March. An additional filing fee of fifty dollars shall be included with the sworn statement of annual expenditures if the statement is submitted between the sixteenth day of March and the
fifteenth day of April. If the sworn statement is not
submitted on or before the fifteenth day of April, the
volunteer fire department shall file an audit of the dis-
bursement of funds, made by an independent certified
public accountant, with the legislative auditor's office no
later than the first day of July. The audit shall be made at
the cost of the volunteer fire department. If the audit
made by the independent certified public accountant is not
filed with the legislative auditor by the first day of July,
the legislative auditor shall notify the state treasurer who
shall withhold payment of one thousand dollars from any
amount that would otherwise be distributed to the fire
department under the provisions of sections fourteen-d
and thirty-three, article three, chapter thirty-three of this
code and section sixteen-a, article twelve of said chapter
and pay the amount withheld to the fund from which it
was distributed to be redistributed the following year
pursuant to the applicable provisions of those sections. If
the volunteer fire department does not timely file a sworn
statement of annual expenditures or an audit of the
disbursement of funds, made by an independent certified
public accountant, with the legislative auditor's office for
three consecutive years, the legislative auditor shall notify
the state treasurer who shall withhold payment of any
amount that would otherwise be distributed to the fire
department under the provisions of sections fourteen-d
and thirty-three, article three, chapter thirty-three of this
code and section sixteen-a, article twelve of said chapter
and pay the amount withheld to the fund from which it
was distributed to be redistributed the following year
pursuant to the applicable provisions of those sections.

(c) The office of the legislative auditor may assign an
employee or employees to perform audits at the direction
of the legislative auditor of the disbursement of funds or
grants to volunteer fire departments. The volunteer fire
department shall cooperate with the legislative auditor,
the legislative auditor's employees and the state auditor in
performing their duties under this section. If the legisla-
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tive auditor determines a volunteer fire department is not cooperating, the legislative auditor shall notify the state treasurer who shall withhold payment of any amount that would otherwise be distributed to the fire department under the provisions of sections fourteen-d and thirty-three, article three, chapter thirty-three of this code and section sixteen-a, article twelve of said chapter until the legislative auditor informs the treasurer that the fire department has cooperated as required by this section. The state treasurer shall pay the amount withheld into a special revenue account hereby created in the state treasury and designated the "Volunteer Fire Department Audit Account". 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 fire department, the state treasurer shall pay the amount withheld to the fund from which it was distributed to be redistributed the following year pursuant to the applicable provisions of those sections.

(d) Filing fees paid by volunteer fire departments pursuant to this section shall be paid into a special revenue account created in the state treasury known as the "Special Legislative Audit Fund". Expenditures from the fund are authorized to be made by the legislative auditor's office solely for the purposes of payment of costs associated with the audits conducted pursuant to this section. Any person who files a fraudulent sworn statement of expenditures under this section is guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(e) Whenever the state auditor performs an audit of a volunteer fire department for any purpose the auditor shall also conduct an audit of other state funds received by the fire department pursuant to sections fourteen-d and
thirty-three, article three, chapter thirty-three of this code
and section sixteen-a, article twelve of said chapter. The
auditor shall send a copy of any such audit to the legisla-
tive auditor. The legislative auditor may accept an audit
performed by the auditor in lieu of performing an audit
under this section.

(f) Any audit submitted pursuant to the provisions of this
section may be filed electronically in accordance with the
provisions of article one, chapter thirty-nine-a of this
code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In 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 is approved this the ___ Day of _________, 2004.

Governor