

HB 4141

FILED

2008 MAR 27 AM 11:05

SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

House Bill No. 4141

(By Delegates White and Webster)



Passed March 5, 2008

In Effect Ninety Days from Passage

E N R O L L E D

FILED

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H. B. 4141

CLERK OF COURTS
SECRETARY OF STATE

(BY DELEGATES WHITE AND WEBSTER)

[Passed March 5, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §55-17-3 of the Code of West Virginia, 1931, as amended, relating to reducing the number of written status reports on a civil action against a state government agency required to be provided by the chief officer of the government agency.

Be it enacted by the Legislature of West Virginia:

That §55-17-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 17. PROCEDURES FOR CERTAIN ACTIONS
AGAINST THE STATE.**

**§55-17-3. Preliminary procedures; service on Attorney
General; notice to the Legislature.**

1 (a)(1) Notwithstanding any provision of law to the
2 contrary, at least thirty days prior to the institution of an

3 action against a government agency, the complaining party or
4 parties must provide the chief officer of the government
5 agency and the Attorney General written notice, by certified
6 mail, return receipt requested, of the alleged claim and the
7 relief desired. Upon receipt, the chief officer of the
8 government agency shall forthwith forward a copy of the
9 notice to the President of the Senate and the Speaker of the
10 House of Delegates. The provisions of this subdivision do
11 not apply in actions seeking injunctive relief where the court
12 finds that irreparable harm would have occurred if the
13 institution of the action was delayed by the provisions of this
14 subsection.

15 (2) The written notice to the chief officer of the
16 government agency and the Attorney General required by
17 subdivision (1) of this subsection is considered to be
18 provided on the date of mailing of the notice by certified
19 mail, return receipt requested. If the written notice is
20 provided to the chief officer of the government agency as
21 required by subdivision (1) of this subsection, any applicable
22 statute of limitations is tolled for thirty days from the date the
23 notice is provided and, if received by the government agency
24 as evidenced by the return receipt of the certified mail, for
25 thirty days from the date of the returned receipt.

26 (3) A copy of any complaint filed in an action as defined
27 in section two of this article shall be served on the Attorney
28 General.

29 (b) (1) Notwithstanding any procedural rule or any
30 provision of this code to the contrary, in an action instituted
31 against a government agency that seeks a judgment, as

32 defined in section two of this article, the chief officer of the
33 government agency which is named a party to the action
34 shall, upon receipt of service, forthwith give written notice
35 thereof, together with a copy of the complaint filed, to the
36 President of the Senate and the Speaker of the House of
37 Delegates.

38 (2) Upon request, the chief officer of the government
39 agency shall furnish the President and Speaker with copies of
40 pleadings filed and discovery produced in the proceeding and
41 other documents, information and periodic reports relating to
42 the proceeding as may be requested.

43 (3) The chief officer of a government agency who fails
44 without good cause to comply with the provisions of this
45 subsection is guilty of misfeasance. This subsection does not
46 require a notice or report to the President and the Speaker
47 that no action has been instituted or is pending against a
48 governmental agency during a specified period.

49 (c) The requirements for notice and delivery of pleadings
50 and other documents to the President of the Senate or
51 Speaker of the House of Delegates pursuant to the provisions
52 of this section do not constitute a waiver of any
53 Constitutional immunity or protection that proscribes or
54 limits actions, suits or proceedings against the Legislature or
55 the State of West Virginia.

56 (d) The exercise of authority granted by the provisions of
57 this section does not subject the Legislature or any member
58 of the Legislature to any terms of a judgment.

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


Chairman Senate Committee


Chairman House Committee

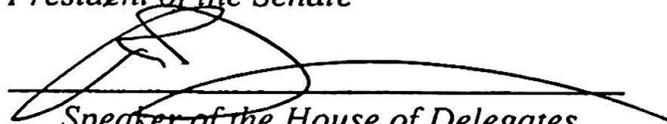
Originating in the House.

In effect ninety days from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 27th
day of March, 2008.


Governor

PRESENTED TO THE
GOVERNOR

MAR 17 2008

Time 9:35 AM