


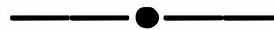
HB 104

FILED

2008 APR -1 AM 11:08

OFFICE WEST VIRGINIA  
SECRETARY OF STATE 

**WEST VIRGINIA LEGISLATURE**  
FIRST EXTRAORDINARY SESSION, 2008



**ENROLLED**

**House Bill No. 104**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)  
[By Request of the Executive]



Passed March 16, 2008

In Effect Ninety Days from Passage

**E N R O L L E D**

FILED

2008 APR -1 AM 11: 08

**H. B. 104**

OFFICE OF THE  
SECRETARY OF STATE

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(BY MR. SPEAKER, MR. THOMPSON, AND DELEGATE ARMSTEAD)  
[BY REQUEST OF THE EXECUTIVE]

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[Passed March 16, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §55-17-1 and §55-17-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-17-6, all relating to requiring notice to certain public officials upon commencement of actions on behalf of the state or a government agency thereof; requiring notice prior to settlement of such actions; requiring notice of potential recovery through seizure or forfeiture of assets in certain criminal cases; and providing for statutory construction of the article.

*Be it enacted by the Legislature of West Virginia:*

That §55-17-1 and §55-17-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §55-17-6, all to read as follows:

**ARTICLE 17. PROCEDURES FOR CERTAIN ACTIONS ON  
BEHALF OF OR AGAINST THE STATE.**

**§55-17-1. Findings; purpose.**

1           (a) The Legislature finds that there are numerous actions,  
2 suits and proceedings filed against state government agencies  
3 and officials that may affect the public interest. Depending  
4 upon the outcome, this type of litigation may have significant  
5 consequences that can only be addressed by subsequent  
6 legislative action. In these actions, the Legislature is not  
7 directly involved as a party. The Legislature is not a proper  
8 party to these actions because of an extensive structure of  
9 constitutional protections established to safeguard the  
10 prerogatives of the legislative branch under our governmental  
11 system of checks and balances. Government agencies and  
12 their officials require more notice of these actions and time  
13 to respond to them and the Legislature requires more timely  
14 information regarding these actions, all in order to protect the  
15 public interest. The Legislature further finds that protection  
16 of the public interest is best served by clarifying that no  
17 government agency may be subject to awards of punitive  
18 damages in any judicial proceeding.

19           (b) The Legislature further finds that there are numerous  
20 actions, suits and proceedings filed on behalf of the State of  
21 West Virginia or a government agency thereof, that may  
22 affect the public interest. Depending upon the outcome, this  
23 type of litigation may have significant consequences that can  
24 only be addressed by subsequent legislative action. In such  
25 litigation, the Governor, Department of Administration and  
26 the Legislature may not be directly involved as parties.  
27 Additionally, the Governor, Department of Administration  
28 and the Legislature need advance notice of potential moneys  
29 that may become available as a result of seizure or forfeiture  
30 of assets under state or federal criminal law. The Governor,  
31 Department of Administration and the Legislature require  
32 more timely information regarding these actions in order to  
33 protect the public interest. The Legislature further finds that  
34 protection of the public interest is best served by requiring  
35 notice to the Governor, the Secretary of the Department of

36 Administration, the President of the Senate and the Speaker  
37 of the House of Delegates of any action brought on behalf of  
38 the state or a government agency thereof, which may result  
39 in a judgment, award or settlement and when the state or a  
40 government agency thereof, becomes eligible for moneys  
41 from state or federal seizure or forfeiture of assets in criminal  
42 cases.

43 (c) It is the purpose of this article to establish procedures  
44 to be followed in certain civil actions filed on behalf of or  
45 against state government agencies and their officials.

**§55-17-5. Notice of settlement, seizure or forfeiture.**

1 (a) So that the Governor, the Department of  
2 Administration and the Legislature may be aware of potential  
3 awards, the person or entity bringing any action on behalf of  
4 the State of West Virginia, or a government agency thereof,  
5 which could result in settlement or judgment shall upon  
6 commencement of the action and prior to entering into any  
7 settlement agreement which directs how the money should be  
8 expended, notify and provide copies of pleadings and related  
9 documents to the Governor, the Secretary of the Department  
10 of Administration, the President of the Senate and the  
11 Speaker of the House of Delegates.

12 (b) When a government agency becomes aware that  
13 moneys may be available to them from a state or federal  
14 seizure or forfeiture in a criminal case they shall notify the  
15 Governor, the Secretary of the Department of Administration,  
16 the President of the Senate and the Speaker of the House of  
17 Delegates: *Provided*, That the total value of the assets to be  
18 seized or forfeited exceeds two hundred and fifty thousand  
19 dollars.

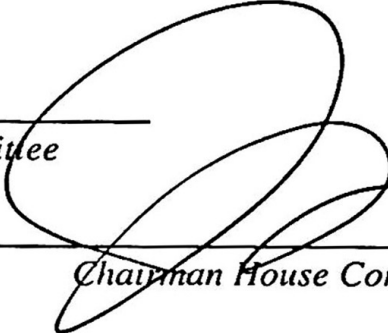
**§55-17-6. Construction of article.**

1       (a) It is the express intent of the Legislature that the  
2 provisions of this article be liberally construed to effectuate  
3 the public policy set forth in section one of this article.

4       (b) The provisions of this article may not be construed to  
5 impose any liability upon a state agency from which the  
6 agency is otherwise immune.

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

  
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Chairman Senate Committee

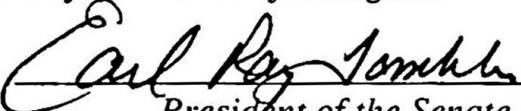
  
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Chairman House Committee

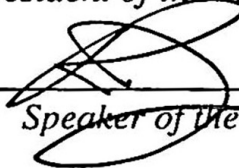
Originating in the House.

In effect ninety days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 1st  
day of April, 2008.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 26 2008

Time 3:08 P