

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Enrolled

### Senate Bill 687

BY SENATORS WOODRUM AND BARRETT

[Passed March 7, 2024; in effect 90 days from  
passage (June 5, 2024)]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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1 AN ACT to amend and reenact §4-2-3, §4-2-4, §4-2-6, and §4-2-8 of the Code of West Virginia,  
2 1931, as amended; to repeal §4-2-5 of said code; to amend and reenact §4-3-3c of said  
3 code; to amend and reenact §4-10-3, §4-10-6, §4-10-7, §4-10-9, and §4-10-10 of said  
4 code; and to repeal §4-10-8 of said code, all relating to the Legislative Auditor; establishing  
5 that auditor is responsible to Joint Committee on Government and Finance; clarifying that  
6 auditor may exercise powers at direction of Senate President or Speaker of the House of  
7 Delegates; restating authority of auditor to inspect properties, equipment, and records;  
8 providing for publication of post audit reports; prohibiting auditor from using external  
9 auditing entities to conduct audits except as directed by Senate President or Speaker;  
10 modifying obligations of auditor regarding budgetary matters; providing that committee  
11 has authority to hire employees to assist auditor in performance of obligations; clarifying  
12 hiring authority of committee; providing that department presentations are to be made at  
13 Senate President's or Speaker's direction; mandating that state agencies be reviewed  
14 within certain time period; eliminating requirement that agency and regulatory board  
15 reviews be conducted according to certain auditing standards; revising schedule of  
16 regulatory board reviews; and providing that agency and regulatory board reviews may be  
17 conducted more frequently than mandated.

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

**ARTICLE 2. LEGISLATIVE AUDITOR; POWERS; FUNCTIONS; COMPENSATION.**

**§4-2-3. Appointment of Legislative Auditor; responsibility to Joint Committee on  
Government and Finance.**

1 There is hereby created the position of Legislative Auditor who shall be appointed by the  
2 committee to serve at its will and pleasure. The Legislative Auditor shall be solely responsible to  
3 the committee.

**§4-2-4. Powers of Auditor; reports.**

1 (a) The Legislative Auditor shall have the following powers, which he or she may exercise  
2 as directed by the President of the Senate or the Speaker of the House of Delegates:

3 (1) To compile fiscal information for the Senate and the House of Delegates;

4 (2) To make an audit and analysis of the state budget, revenues, and expenditures during  
5 and between sessions of the Legislature;

6 (3) To make post audits of the revenues and expenditures of the spending units of the  
7 state government;

8 (4) To report any misapplication of state funds or erroneous, extravagant, or unlawful  
9 expenditures by any spending unit; and

10 (5) To ascertain facts and make recommendations to the Legislature concerning post-  
11 audit findings, the revenues and expenditures of the state, and of the organization and functions  
12 of the state and its spending units.

13 (b) In the exercise of these powers, as directed by the President of the Senate or the  
14 Speaker of the House of Delegates, the Legislative Auditor shall have the authority, by such  
15 means as are necessary, to require any person holding office in the state government or employed  
16 by the state to allow the Legislative Auditor to inspect the properties, equipment, facilities, and  
17 records of the various spending units, either before or after estimates are submitted, and before,  
18 during, and after sessions of the Legislature. Refusal by any person or the state government entity  
19 to allow such inspection shall be reported by the Legislative Auditor to the committee, the  
20 President of the Senate, or the Speaker of the House of Delegates.

21 (c) The Legislative Auditor may collect, and the spending unit shall pay, any or all of the  
22 costs associated with conducting the post audits from the spending unit being audited, when  
23 necessary and desirable. The Legislative Auditor shall render to the spending unit liable for the  
24 costs a statement of the costs as soon after the costs were incurred as practicable, and it is the  
25 duty of the spending unit to pay promptly in the manner that other claims and accounts are paid.  
26 All money received by the Legislative Auditor from this source shall be expended only for the  
27 purpose of covering the costs associated with such services, unless otherwise directed by the  
28 Legislature.

29 (d) Upon completion of a post audit, the Legislative Auditor shall report his or her findings  
30 and recommendations to the Legislature's Post Audit Subcommittee and, after presentation,  
31 publish the report on the Post Audit Division website.

32 (e) The Legislative Auditor shall conduct all examinations and audits and may not use  
33 external auditing firms or entities to conduct them except as otherwise directed by the President  
34 of the Senate or the Speaker of the House of Delegates.

**§4-2-5. Powers of Auditor.**

1 [Repealed.]

**§4-2-6. Preparation of budgets and reports.**

1 The Legislative Auditor shall compile revenue and budgetary reports, in such form and  
2 with such itemization and other information as the committee shall prescribe, at least 30 days  
3 prior to any legislative session, and submit them to the committee with appropriate  
4 recommendations, together with such other findings and reports deemed necessary or required  
5 by the committee. The Legislative Auditor shall also report to the committee any misapplication  
6 of state funds and any erroneous, extravagant, or unlawful expenditures by any spending unit,  
7 together with such other findings and reports as the committee shall require.

**§4-2-8. Assistants and employees.**

1 The Legislative Auditor may recommend that the committee employ such assistants or  
2 employees as the Legislative Auditor believes to be necessary for the efficient discharge of his or  
3 her tasks. The committee may, in its discretion, employ assistants and employees to aid the  
4 Legislative Auditor and fix their number and compensation.

**ARTICLE 3. JOINT COMMITTEE ON GOVERNMENT AND FINANCE.**

**§4-3-3c. Reorganization of joint legislative agencies.**

1 (a) The Joint Committee on Government and Finance has the authority over and direction  
2 of joint legislative agencies, personnel, and services, including, but not limited to, the following:

3 (1) The Commission on Special Investigations provided for in §4-5-1 *et seq.* of this code;

4 (2) The West Virginia Legislative Claims Commission provided for in §14-2-1 *et seq.* and  
5 crime victims compensation provided for in §14-2A-1 *et seq.* of this code;

6 (3) The Legislative Auditor provided for in §4-2-1 *et seq.* of this code;

7 (4) The Legislative Rule-Making Review Committee provided for in §29A-3-1 *et seq.* of  
8 this code;

9 (5) The Legislative Reference Library provided for in §4-3-3 of this code;

10 (6) The Legislative Automated Systems Division;

11 (7) Legislative Services;

12 (8) Public information; and

13 (9) Joint services provided by one or more of the joint agencies set forth in this subsection.

14 The following joint services are included:

15 (A) Bill drafting;

16 (B) Budget analysis;

17 (C) Duplicating;

18 (D) Financial, payroll, personnel, and purchasing for joint agencies and personnel;

19 (E) Fiscal analysis;

20 (F) Post audits, full performance evaluations, and preliminary performance reviews;

21 (G) Research; and

22 (H) Joint services to other joint legislative committees created and authorized by this code,  
23 to joint standing committees of the Senate and House of Delegates, to standing committees of  
24 the Senate and House of Delegates and to legislative interim committees.

25 (b) Notwithstanding any other provision of this chapter to the contrary, the Joint Committee  
26 on Government and Finance has the authority to reorganize and restructure the joint legislative  
27 agencies, personnel, and services as provided in subsection (a) of this section for the purposes  
28 of improving their efficiency and the service they provide to the Legislature and to improve the  
29 management thereof by the joint committee. To accomplish these purposes, the joint committee



30 may employ and terminate personnel; create divisions as it determines necessary; and transfer  
31 and assign the joint agencies, personnel, and services to the divisions. The divisions, joint  
32 agencies, personnel, and services shall operate under the direction and policies of the joint  
33 committee: *Provided*, That nothing in this section shall be construed to permit the joint committee  
34 to alter or redefine the powers, duties, and responsibilities vested in the Commission on Special  
35 Investigations pursuant to §4-5-1 *et seq.* of this code.

## **ARTICLE 10. PERFORMANCE REVIEW ACT.**

### **§4-10-3. Definitions.**

1 As used in this article, unless the context clearly indicates a different meaning:

2 (a) "Agency" or "state agency" means a state governmental entity, including any bureau,  
3 department, division, commission, agency, committee, office, board, authority, subdivision,  
4 program, council, advisory body, cabinet, panel, system, task force, fund, compact, institution,  
5 survey, position, coalition or other entity in the State of West Virginia.

6 (b) "Agency review" means a review performed on an agency at the direction of the  
7 President of the Senate, the Speaker of the House of Delegates, or by recommendation of the  
8 joint standing committee pursuant to the provisions of this article.

9 (c) "Committee" means the Joint Committee on Government Operations.

10 (d) "Compliance review" means a review for compliance with recommendations contained  
11 in a previous agency review or regulatory board review conducted pursuant to the provisions of  
12 this article and may include further inquiry of other issues as directed by the President, the  
13 Speaker, the committee, the joint standing committee, or the Joint Committee on Government  
14 and Finance.

15 (e) "Department" means the departments created within the executive branch, headed by  
16 a secretary appointed by the Governor, as authorized by the Code of West Virginia.

17 (f) "Department presentation" means a presentation by a department pursuant to the  
18 provisions of this article made at the direction of the President of the Senate or the Speaker of  
19 the House of Delegates.

20 (g) "Division" means the Performance Evaluation and Research Division, the Post Audit  
21 Division, or any division of the Legislative Auditor's Office.

22 (h) "Joint standing committee" means the Joint Standing Committee on Government  
23 Organization.

24 (i) "Privatize" means a contract to procure the services of a private vendor to provide a  
25 service that is similar to, or in lieu of, a service provided by a state agency.

26 (j) "Regulatory Board" means a board that regulates professions and occupations, created  
27 under the provisions of chapter 30 of this code.

28 (k) "Regulatory Board Review" means a review performed on a regulatory board pursuant  
29 to the provisions of this article.

**§4-10-6. Department presentation; timing and scope.**

1 (a) At the direction of the President of the Senate or the Speaker of the House of  
2 Delegates, and upon notification from the division, a department shall prepare and make a  
3 presentation to the joint standing committee and the committee. The purpose of the presentation  
4 is to inform the Legislature as to the programs, activities, and financial situation of the department  
5 and to update and amend any information previously presented to the joint standing committee  
6 or committee pursuant to this section. The presentation shall include:

7 (1) A departmental chart designating each agency under the purview of the department;

8 (2) An analysis of the department's internal performance measures and self-assessment  
9 systems; and

10 (3) For each agency under the purview of the department, the following:

11 (A) The mission, goals, and functions of the agency;

12 (B) The statutory or other legal authority under which the agency operates;

- 13 (C) The number of employees of the agency for the immediate past 10 years;
- 14 (D) The budget for the agency for the immediate past 10 years;
- 15 (E) Any potential or actual loss of revenue due to operations, changes in law, or any other  
16 reason;
- 17 (F) The extent to which the agency has operated in the public interest;
- 18 (G) The extent to which the agency has complied with state personnel practices, including  
19 affirmative action requirements;
- 20 (H) The extent to which the agency has encouraged public participation in the making of  
21 its rules and decisions and has encouraged interested persons to report to it on the impact of its  
22 rules and decisions on the effectiveness, economy, and availability of services that it has  
23 provided;
- 24 (I) The efficiency with which public inquiries or complaints regarding the activities of the  
25 agency have been processed and resolved;
- 26 (J) The extent to which statutory, regulatory, budgeting, or other changes are necessary  
27 to enable the agency to better serve the interests of the public and to comply with the factors  
28 enumerated in this subsection; and
- 29 (K) A recommendation as to whether the agency should be continued, consolidated, or  
30 terminated.

**§4-10-7. Agency review.**

- 1 (a) The division shall conduct agency reviews of one or more state agencies each year.  
2 An agency review shall be conducted of each state agency at least once every 15 years. An  
3 agency review may be conducted more frequently than once in 15 years and may be conducted  
4 in the discretion, and at the direction, of the President of the Senate, the Speaker of the House of  
5 Delegates, or by recommendation of the joint standing committee.
- 6 (b) The agency review may include, but is not limited to:
- 7 (1) An identification and description of the agency under review;

- 8           (2) The number of employees of the agency for the immediate past 10 years;
- 9           (3) The budget for the agency for the immediate past 10 years;
- 10          (4) Whether the agency is effectively and efficiently carrying out its statutory duties or  
11 exercising its legal authority;
- 12          (5) Whether the activities of the agency duplicate or overlap with those of other agencies  
13 and, if so, how these activities could be consolidated;
- 14          (6) A cost-benefit analysis, as described in subsection (d) of this section, on state services  
15 that are privatized or contemplated to be privatized;
- 16          (7) An assessment of the utilization of information technology systems within the agency,  
17 including interagency and intra-agency communications;
- 18          (8) An analysis of any issues raised by any presentation by the department under whose  
19 purview the agency falls made pursuant to the provisions of this article;
- 20          (9) An analysis of any other issues as the committee, the joint standing committee, the  
21 President of the Senate, or the Speaker of the House of Delegates may direct; and
- 22          (10) A recommendation as to whether the agency under review should be continued,  
23 consolidated, or terminated.
- 24          (c) An agency may be subject to a compliance review pursuant to the provisions of this  
25 article.
- 26          (d) A cost-benefit analysis authorized by this section may include:
- 27           (1) The tangible benefits of privatizing the service;
- 28           (2) Any legal impediments that may limit or prevent privatization of the service;
- 29           (3) The availability of multiple qualified and competitive private vendors; and
- 30           (4) A cost comparison, including total fixed and variable, direct and indirect, costs of the  
31 current governmental operation and the private vendor contract.

**§4-10-8. Schedule of departments for agency review.**

1           [Repealed.]

**§4-10-9. Regulatory board review.**

1           (a) The division shall conduct regulatory board reviews on each regulatory board to  
2 ascertain if there is a need for the continuation, consolidation, or termination of the regulatory  
3 board as one of its duties.

4           (b) A regulatory board review shall be performed on each regulatory board at least once  
5 every 12 years. A regulatory board may be subject to a compliance review pursuant to the  
6 provisions of this article.

7           (c) When a new regulatory board is created, a date for a regulatory board review shall be  
8 included in the act that creates the board, within 12 years of the effective date of the act.

9           (d) The regulatory board review may include:

10           (1) Whether the board complies with the policies and provisions of chapter 30 of this code  
11 and other applicable laws and rules;

12           (2) Whether the board follows a disciplinary procedure which observes due process rights  
13 and protects the public interest;

14           (3) Whether the basis or facts that necessitated the initial licensing or regulation of a  
15 profession or occupation have changed, or other conditions have arisen that would warrant  
16 increased or decreased regulation;

17           (4) Whether the composition of the board adequately represents the public interest and  
18 whether the board encourages public participation in its decisions rather than participation only  
19 by the industry and individuals it regulates;

20           (5) Whether statutory changes are necessary to improve board operations to enhance the  
21 public interest;

22           (6) An analysis of any other issues the committee, the joint standing committee, the  
23 President of the Senate, the Speaker of the House of Delegates, or by recommendation of the  
24 joint standing committee.

25           (7) A recommendation as to whether the regulatory board under review should be  
26 continued, consolidated, or terminated.

**§4-10-10. Regulatory board review schedule.**

1           (a) A regulatory board review is required for all regulatory boards.

2           (b) A regulatory board review shall be performed on each regulatory board at least once  
3 every 12 years.

4           (c) A regulatory board review may be conducted more frequently than once in 12 years  
5 and may be conducted in the discretion, and at the direction, of the President of the Senate or the  
6 Speaker of the House of Delegates.

The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

*Joe Lavin*  
.....  
Clerk of the Senate

*Steve Harrison*  
.....  
Clerk of the House of Delegates

FILED  
2024 MAR 27 P 5:39  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Originated in the Senate.

In effect 90 days from passage.

*Cy Pres*  
.....  
President of the Senate

*Bob Harder*  
.....  
Speaker of the House of Delegates

The within is *approved* this the *27th*  
Day of *March* 2024.

*James Justice*  
.....  
Governor





PRESENTED TO THE GOVERNOR

MAR 12 2024

Time 2:52pm