

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 549**

4 (By Senators Wills and Kessler (Acting President))

5 \_\_\_\_\_  
6 [Originating in the Committee on the Judiciary;

7 reported February 23, 2011.]

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10  
11 A BILL to amend and reenact §59-1-4, §59-1-11 and §59-1-13 of the  
12 Code of West Virginia, 1931, as amended, all relating to fees  
13 collected for docketing of civil appeals to be used to enhance  
14 funding for civil legal services for the poor; increasing fees  
15 for filing in circuit court; and creating filing fee for  
16 Supreme Court of Appeals.

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

18 That §59-1-4, §59-1-11 and §59-1-13 of the Code of West  
19 Virginia, 1931, as amended, be amended and reenacted, all to read  
20 as follows:

21 **ARTICLE 1. FEES AND ALLOWANCES.**

22 **§59-1-4. Fees collected by Secretary of State, Auditor and Clerk**  
23 **of Supreme Court of Appeals to be paid into State**  
24 **Treasury; accounts; reports.**

25 Except as otherwise provided by law, the fees to be charged by

1 the Auditor, Secretary of State and Clerk of the Supreme Court of  
2 Appeals, by virtue of this article or any other law, ~~shall be~~ are  
3 the property of the State of West Virginia. ~~and they and each of~~  
4 ~~them~~ The Auditor, Secretary of State and Clerk of the Supreme Court  
5 of Appeals shall account for and pay into the State Treasury at  
6 least once every thirty days all fees ~~by any of them~~ collected or  
7 appearing to be due to the state, to the credit of the general  
8 state fund or other fund as provided by law. The Auditor,  
9 Secretary of State and Clerk of the Supreme Court of Appeals shall  
10 each keep a complete and accurate ~~account by items~~ itemized account  
11 of all fees collected by them and the nature of the services  
12 rendered for which all fees were charged and collected, in  
13 accordance with generally accepted accounting principles, as  
14 provided in article two, chapter five-a of this code. ~~and~~ All  
15 accounts shall be open to inspection and audit as provided in  
16 article two, chapter four of this code.

17 **§59-1-11. Fees to be charged by clerk of circuit court.**

18 (a) The clerk of a circuit court shall charge and collect for  
19 services rendered by the clerk the following fees which shall be  
20 paid in advance by the parties for whom services are to be  
21 rendered:

22 (1) For instituting any civil action under the Rules of Civil  
23 Procedure, any statutory summary proceeding, any extraordinary  
24 remedy, the docketing of civil appeals, or any other action, cause,  
25 suit or proceeding, ~~\$145,~~ \$155 of which \$30 ~~of that amount~~ shall be  
26 deposited in the Courthouse Facilities Improvement Fund created by

1 section six, article twenty-six, chapter twenty-nine of this code  
2 and ~~\$10 shall be~~ \$20 deposited in the special revenue account  
3 created in section six hundred three, article twenty-six, chapter  
4 forty-eight of this code to provide legal services for domestic  
5 violence victims;

6 (2) For instituting an action for medical professional  
7 liability, \$260, of which \$10 ~~of that amount~~ shall be deposited in  
8 the Courthouse Facilities Improvement Fund created by section six,  
9 article twenty-six, chapter twenty-nine of this code;

10 (3) Beginning on and after July 1, 1999, for instituting an  
11 action for divorce, separate maintenance or annulment, \$135;

12 (4) For petitioning for the modification of an order involving  
13 child custody, child visitation, child support or spousal support,  
14 \$85; and

15 (5) For petitioning for an expedited modification of a child  
16 support order, \$35.

17 (b) In addition to the foregoing fees, the following fees  
18 shall ~~likewise~~ be charged and collected:

19 (1) For preparing an abstract of judgment, \$5;

20 (2) For ~~any~~ a transcript, copy or paper made by the clerk for  
21 use in any other court or otherwise to go out of the office, for  
22 each page, \$1;

23 (3) For issuing a suggestion and serving notice to the debtor  
24 by certified mail, \$25;

25 (4) For issuing an execution, \$25;

26 (5) For issuing or renewing a suggestee execution and serving

1 notice to the debtor by certified mail, \$25;

2 (6) For vacation or modification of a suggestee execution, \$1;

3 (7) For docketing and issuing an execution on a transcript of  
4 judgment from magistrate court, \$3;

5 (8) For arranging the papers in a certified question, writ of  
6 error, appeal or removal to any other court, \$10, of which \$5 ~~of~~  
7 ~~that amount~~ shall be deposited in the Courthouse Facilities  
8 Improvement Fund created by section six, article twenty-six,  
9 chapter twenty-nine of this code;

10 (9) For postage and express and for sending or receiving  
11 decrees, orders or records, by mail or express, three times the  
12 amount of the postage or express charges;

13 (10) For each subpoena, on the part of either plaintiff or  
14 defendant, to be paid by the party requesting the same, 50¢;

15 (11) For additional service, plaintiff or appellant, where any  
16 case remains on the docket longer than three years, for each  
17 additional year or part year, \$20; and

18 (12) For administering funds deposited into a federally  
19 insured interest-bearing account or interest-bearing instrument  
20 pursuant to a court order, \$50, to be collected from the party  
21 making the deposit. A fee collected pursuant to this subdivision  
22 shall be paid into the general county fund.

23 (c) The clerk shall tax the following fees for services in ~~any~~  
24 a criminal case against ~~any~~ a defendant convicted in such court:

25 (1) In the case of ~~any~~ a misdemeanor, \$85; and

26 (2) In the case of ~~any~~ a felony, \$105, of which \$10 ~~of that~~

1 ~~amount~~ shall be deposited in the Courthouse Facilities Improvement  
2 Fund created by section six, article twenty-six, chapter  
3 twenty-nine of this code.

4 (d) The clerk of a circuit court shall charge and collect a  
5 fee of \$25 per bond for services rendered by the clerk for  
6 processing of criminal bonds and the fee shall be paid at the time  
7 of issuance by the person or entity set forth below:

8 (1) For cash bonds, the fee shall be paid by the person  
9 tendering cash as bond;

10 (2) For recognizance bonds secured by real estate, the fee  
11 shall be paid by the owner of the real estate serving as surety;

12 (3) For recognizance bonds secured by a surety company, the  
13 fee shall be paid by the surety company;

14 (4) For ten percent recognizance bonds with surety, the fee  
15 shall be paid by the person serving as surety; and

16 (5) For ten percent recognizance bonds without surety, the fee  
17 shall be paid by the person tendering ten percent of the bail  
18 amount.

19 In instances in which the total of the bond is posted by more  
20 than one bond instrument, the above fee shall be collected at the  
21 time of issuance of each bond instrument processed by the clerk and  
22 all fees collected pursuant to this subsection shall be deposited  
23 in the Courthouse Facilities Improvement Fund created by section  
24 six, article twenty-six, chapter twenty-nine of this code. Nothing  
25 in this subsection ~~may be construed as authorizing~~ authorizes the  
26 clerk to collect the above fee from any person for the processing

1 of a personal recognizance bond.

2 (e) The clerk of a circuit court shall charge and collect a  
3 fee of \$10 for services rendered by the clerk for processing of  
4 bailpiece and the fee shall be paid by the surety at the time of  
5 issuance. All fees collected pursuant to this subsection shall be  
6 deposited in the Courthouse Facilities Improvement Fund created by  
7 section six, article twenty-six, chapter twenty-nine of this code.

8 (f) No clerk ~~shall be~~ is required to handle or accept for  
9 disbursement any fees, cost or amounts of any other officer or  
10 party not payable into the county treasury except on written order  
11 of the court or in compliance with the provisions of law governing  
12 such fees, costs or accounts.

13 **§59-1-13. Fees to be charged by Clerk of Supreme Court of Appeals.**

14 The Clerk of the Supreme Court of Appeals shall charge the  
15 following fees to be paid by the parties for whom the services are  
16 rendered:

17 For all copies of petitions, records, orders, opinions or  
18 other papers, per page.. . . . . 25¢

19 For each certificate under seal of the court.. . . . \$5

20 For license to practice law, suitable for framing... . \$25

21 For docketing any civil appeals, including appeals from Family  
22 Courts but not including appeals in workers' compensations cases,  
23 any action in the Supreme Court's original jurisdiction or any other  
24 action, cause or proceeding . . . . . \$200

25 For any other work or services not herein enumerated, the clerk  
26 shall charge the fees prescribed for similar services by clerks of

1 circuit courts.

2 Fees collected for docketing civil appeals shall, in the  
3 discretion of the West Virginia Supreme Court of Appeals, be paid  
4 over either to the Legal Aid of West Virginia or for distribution,  
5 to the Interest on Lawyers' Trust Accounts Fund.

NOTE: The purpose of this bill is to enhance funding for civil legal services for the poor.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.