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3 **H. B. 2095**

4 (By Delegate C. Miller)

5 [Introduced January 12, 2011; referred to the
6 Committee on the Judiciary.]
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §8-13-24, relating to
12 requiring that any new or increased municipal taxes or fees
13 must have a defined purpose; providing that the tax cannot
14 last for more than two years but can be renewed; providing
15 that revenue generated must be spent in accordance with the
16 defined purpose; and providing that surpluses must be defined
17 or returned to the people.

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

19 That the Code of West Virginia, 1931, as amended, be amended
20 by adding thereto a new section, designated §8-13-24, to read as
21 follows:

22 **ARTICLE 13. TAXATION AND FINANCE.**23 **§8-13-24. Defined purposes for taxes and fees; special designated**

1 accounts; misappropriation; expiration and renewal;
2 surpluses.

3 (a) Following the effective date of this section, any
4 increase of the rate or amount of an existing tax or fee or the
5 assessment or charge of a new tax or fee by a municipality under
6 this article or its charter shall declare a defined purpose in the
7 enacting legislation. If the revenue generated is for multiple
8 purposes, enacting legislation shall declare the defined purposes
9 and the percentages where the revenue shall be directed: *Provided,*
10 That the enacting legislation can define the purpose as General
11 Revenue Funding, but must declare the reasons why the increased
12 general revenue is necessary.

13 (b) Revenue collected from the imposition or increase of a
14 tax or fee covered in subsection (a) of this section shall be
15 deposited in separate special designated accounts and the funds
16 from those accounts shall only be used in accordance with the
17 defined purpose of the tax or fee: *Provided,* That any revenue
18 collected for the purpose of General Revenue Funding, or other
19 purpose that has an existing designated account separate from
20 general revenue, may continue to be placed in those accounts.

21 (c) All revenue collected and placed in special designated
22 accounts as directed under subsection (b) of this section, is
23 considered in trust for the municipality. The wrongful and
24 fraudulent use of these proceeds other than for the defined purpose

1 in the enacting legislation shall constitute embezzlement pursuant
2 to section twenty, article three, chapter sixty-one of this code.

3 (d) The imposition or increase of any tax or fee covered
4 under this section shall expire after two years: *Provided*, That it
5 can be renewed as many times as the municipality sees fit or to
6 accomplish the goals of the defined purpose.

7 (e) Within thirty days of the expiration of a tax or fee
8 imposition or increase, and regardless of renewal, any surplus
9 money in a special designated account must be:

10 (1) Returned to the payers in a pro rata share;

11 (2) Kept in the special designated account upon affirmative
12 action of the municipality stating a defined purpose for the funds;
13 or

14 (3) Transferred into a general revenue account upon
15 affirmative action of the municipality declaring a reason why the
16 increased General Revenue Funding is necessary.

NOTE: The purpose of this bill is to require that any new or increased municipal taxes or fees must have a defined purpose. It provides that the tax cannot last for more than two years but can be renewed. Revenue generated must be spent in accordance with the defined purpose, and surpluses must be defined or returned to the people.

This section is new; therefore, it has been completely underscored.