

**Senate Bill No. 355**

(By Senators Klempa, McCabe and Wells)

[Introduced January 20, 2012; referred to the Committee on  
Government Organization; and then to the Committee on Finance.]

10 A BILL to amend and reenact §11A-2-2 of the Code of West Virginia,  
11       1931, as amended, relating to collection of delinquent taxes.

12 Be it enacted by the Legislature of West Virginia:

13        That §11A-2-2 of the Code of West Virginia, 1931, as amended,  
14 be amended and reenacted to read as follows:

**ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.**

16 §11A-2-2. Collection by civil action; fees and costs not required  
17 of sheriff.

18           (a) Taxes are hereby declared to be debts owing by the  
19 taxpayer, for which he or she shall be personally liable. After  
20 delinquency, the sheriff may enforce this liability by appropriate  
21 action in any court of competent jurisdiction. No such action  
22 shall be brought after five years from the time the action accrued.

23 (b) In any such action, the sheriff shall be permitted to

1 prosecute the same without paying fees or costs, and without  
2 providing bond or security, as may otherwise be required of civil  
3 litigants by the provisions of this code, and shall have all  
4 services and process, including the services of witnesses, without  
5 paying therefor: *Provided*, That the sheriff shall maintain for  
6 each action for the recovery of delinquent taxes records sufficient  
7 to demonstrate the total fees and costs paid and that would have  
8 been paid but for the authority provided herein to seek recovery  
9 without such payment: *Provided, however*, That where the sheriff  
10 recovers delinquent taxes in or as the result of such action,  
11 whether by way of settlement or judgment, such fees and costs as  
12 above required to be recorded shall be recoverable from the  
13 opposite party and upon receipt of any recovery, the sheriff shall  
14 pay from the amount recovered such fees or costs to the officer who  
15 otherwise would have been entitled thereto but for the provisions  
16 of this section: *Provided further*, That the fees and costs in this  
section, and any other fees and cost including, but not limited to,  
legal fees and collection cost incurred by the sheriff, shall be  
19 paid prior to payment to the various taxing units of the balance of  
20 the recovered taxes: *And provided further*, That the payment to the  
21 various taxing units shall be prorated on the basis of the total  
22 amount of taxes due them.

NOTE: The purpose of this bill is to allow counties to deduct

the cost of collection of delinquent taxes from the distribution to levying bodies.

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