

**H. B. 2776**

(By Delegates Manypenny, Marshall, Guthrie, Fleischauer,  
Skinner, Barill, Moore, Perdue, Walker,  
Shott and Miley)

[Introduced March 1, 2013; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §59-1-10 and §59-1-11 of the Code of  
West Virginia, 1931, as amended, all relating to increasing  
certain filing fees in certain civil actions; establishing new  
filing fees in certain civil actions; and requiring that those  
new and increased fees be deposited in the existing Fund for  
Civil Legal Services for Low Income Persons and an amount  
retained by the clerk's office.

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

That §59-1-10 and §59-1-11 of the Code of West Virginia, 1931,  
as amended, be amended and reenacted, all to read as follows:

**ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-10. Fees to be charged by clerk of county commission.**

For the purpose of this section, the word "page" is defined as  
being a paper or electronic writing of not more than legal size, 8  
½" x 14".

(a) When a writing is admitted to record, for receiving proof

1 of acknowledgment thereof, entering an order in connection  
2 therewith, endorsing clerk's certificate of recordation thereon and  
3 indexing in a proper index, the clerk of the county commission  
4 shall charge and collect the following fees:

5 (1) Fifteen dollars for a deed of conveyance (with or without  
6 a plat), trust deed, fixture filing or security agreement  
7 concerning real estate lease.

8 (2) Forty dollars for a trustee's report of sale for any  
9 property for which additional information and filing requirements  
10 are required by section eight-a, article one, chapter thirty-eight  
11 of this code. Twenty dollars of each recording fee received  
12 pursuant to this subdivision shall be deposited into the county's  
13 General Revenue Fund and \$20 paid quarterly by the clerk of the  
14 county commission to the West Virginia Housing Development Fund  
15 established in article eighteen, chapter thirty-one of this code.

16 (3) ~~Ten~~ Twenty dollars for a financing, continuation,  
17 termination or other statement or writing permitted to be filed  
18 under chapter forty-six of this code. Ten dollars of each  
19 recording fee received pursuant to this subdivision shall be  
20 deposited in the special revenue account created by paragraph (B),  
21 subdivision (4), subsection (c) of this section to provide civil  
22 legal services for low income persons.

23 (4) Ten dollars for a plat or map (with no deed of  
24 conveyance).

1 (5) No charge for a service discharge record.

2 (6) Fifteen dollars for any notice of substitution of trustee  
3 or trustees and for any other document filed pursuant to section  
4 thirteen, article one, chapter thirty-eight of this code. Ten  
5 dollars of each recording fee received pursuant to this subdivision  
6 shall be deposited in the special revenue account created by  
7 paragraph (B), subdivision (4), subsection (c) of this section to  
8 provide civil legal services for low income persons.

9 ~~(6)~~ (7) Ten dollars for any document or writing other than  
10 those referenced in subdivisions (1), (2), (3), (4) and (5) of this  
11 subsection.

12 ~~(7)~~ (8) One dollar for each additional page for documents or  
13 writings containing more than five pages.

14 For any of the documents admitted to record pursuant to this  
15 subsection, if the clerk of the county commission has the  
16 technology available to receive these documents in electronic form  
17 or other media, the clerk shall set a reasonable fee to record  
18 these writings not to exceed the cost for filing paper documents.

19 ~~(8)~~ (9) Of the fees collected pursuant to subdivision (1),  
20 subsection (a) of this section, \$10 shall be deposited in the  
21 county general fund in accordance with section twenty-eight of this  
22 article and \$1 shall be deposited in the county general fund and  
23 dedicated to the operation of the county clerk's office. Four  
24 dollars of the fees collected pursuant to subdivision (1),

1 subsection (a) of this section and \$5 of the fees collected  
2 pursuant to subdivision (6), subsection (a) of this section shall  
3 be paid by the county clerk into the State Treasury and deposited  
4 in equal amounts for deposit into the Farmland Protection Fund  
5 created in article twelve, chapter eight-a of this code for the  
6 benefit of the West Virginia Agricultural Land Protection Authority  
7 and into the Outdoor Heritage Conservation Fund created in article  
8 two-g, chapter five-b of this code. The funds deposited in the  
9 State Treasury pursuant to this subdivision may only be used for  
10 costs, excluding personnel costs, associated with purpose of land  
11 conservation, as defined in subsection (f), section seven, article  
12 two-g, chapter five-b of this code.

13 (b) Five dollars for administering any oath other than oaths  
14 by officers and employees of the state, political subdivisions of  
15 the state or a public or quasi-public entity of the state or a  
16 political subdivision of the state, taken in his or her official  
17 capacity.

18 (c) Fifty-five dollars for issuance of marriage license and  
19 other duties pertaining to the marriage license (including  
20 preparation of the application, administering the oath,  
21 registering and recording the license, mailing acknowledgment of  
22 minister's return to one of the licensees and notification to a  
23 licensee after sixty days of the nonreceipt of the minister's  
24 return). This fee is reduced to \$35 if the applicants present a

1 premarital education course completion certificate issued pursuant  
2 to section seven hundred one, article two, chapter forty-eight of  
3 this code, and dated within one year of the application for a  
4 marriage license.

5 (1) One dollar of the marriage license fee received pursuant  
6 to this subsection shall be paid by the county clerk into the State  
7 Treasury as a state registration fee in the same manner that  
8 license taxes are paid into the Treasury under article twelve,  
9 chapter eleven of this code;

10 (2) Fifteen dollars of the marriage license fee received  
11 pursuant to this subsection shall be paid by the county clerk into  
12 the State Treasury for the Family Protection Shelter Support Act in  
13 the same manner that license taxes are paid into the Treasury under  
14 article twelve, chapter eleven of this code;

15 (3) Ten dollars of the marriage license fee received pursuant  
16 to this subsection shall be deposited in the Courthouse Facilities  
17 Improvement Fund created by section six, article twenty-six,  
18 chapter twenty-nine of this code; and

19 (4) If a premarital education course completion certificate is  
20 not presented, the county clerk shall, on or before the tenth day  
21 of each month, transmit \$20 of the marriage license fee received  
22 pursuant to this subsection to the State Treasurer for deposit in  
23 the State Treasury as follows:

24 (A) Five dollars to the credit of the Family Protection

1 Shelter Support Act in the same manner that license taxes are paid  
2 into the Treasury under article twelve, chapter eleven of this  
3 code;

4       (B) Five dollars to the credit of the special revenue account,  
5 hereby created, designated the "Fund for Civil Legal Services for  
6 Low Income Persons," which shall consist of all gifts, grants,  
7 bequests, transfers, appropriations or other donations or payments  
8 which may be received and administered by the Division of Justice  
9 and Community Services from any governmental entity or unit or any  
10 person, firm, foundation, or corporation for the purposes of this  
11 section, and all interest or other return earned from investment of  
12 the fund. Expenditures from the fund shall be made by the Director  
13 of the Division of Justice and Community Services and shall be  
14 limited to grants to nonprofit agencies which provide civil legal  
15 services to low income persons made at his or her discretion. Any  
16 balance in the fund at the end of each fiscal year shall not revert  
17 to the General Revenue Fund but shall remain in the fund and be  
18 expended as provided by this section.

19       (C) Ten dollars to the credit of the Marriage Education Fund  
20 created pursuant to section seven hundred two, article two, chapter  
21 forty-eight of this code.

22       (d) (1) One dollar and fifty cents for a copy of any writing  
23 or document, if it is not otherwise provided for.

24       (2) One dollar for each additional page if the writing or

1 documents contains more than two pages.

2 (3) One dollar for annexing the seal of the commission or  
3 clerk to any paper.

4 (4) Five dollars for a certified copy of a birth certificate,  
5 death certificate or marriage license.

6 (e) For copies of any record in electronic form or a medium  
7 other than paper, a reasonable fee set by the clerk of the county  
8 commission not to exceed the costs associated with document search  
9 and duplication.

10 **§59-1-11. Fees to be charged by clerk of circuit court.**

11 (a) The clerk of a circuit court shall charge and collect for  
12 services rendered by the clerk the following fees which shall be  
13 paid in advance by the parties for whom services are to be  
14 rendered:

15 (1) For instituting any civil action under the Rules of Civil  
16 Procedure, any statutory summary proceeding, any extraordinary  
17 remedy, the docketing of civil appeals, removals of civil cases  
18 from magistrate court or any other action, cause, suit or  
19 proceeding, ~~\$155~~ \$200, of which \$30 shall be deposited in the  
20 Courthouse Facilities Improvement Fund created by section six,  
21 article twenty-six, chapter twenty-nine of this code, \$35 shall be  
22 deposited in the special revenue account created by paragraph (B),  
23 subdivision (4), subsection (c), section ten of this article to  
24 provide civil legal services for low income persons, and \$20

1 deposited in the special revenue account created in section six  
2 hundred three, article twenty-six, chapter forty-eight of this code  
3 to provide legal services for domestic violence victims and \$10  
4 shall be retained by the clerk to support the operation of the  
5 clerk's office;

6 (2) For instituting an action for medical professional  
7 liability, \$280, of which \$10 shall be deposited in the Courthouse  
8 Facilities Improvement Fund created by section six, article twenty-  
9 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 (6) For filing any pleading that includes one or more  
18 counterclaim, cross complaint, or third party or intervenor  
19 complaint, or for filing a motion or request that a matter be  
20 designated as a complex litigation case, \$200, which shall be  
21 deposited in the special revenue account created by paragraph (B),  
22 subdivision (4), subsection (c), section ten of this article to  
23 provide civil legal services for low-income persons. However, this  
24 subdivision does not apply to cases involving marital divorce;

1       (7) For filing any motion to transfer any case to the Business  
2 Court Division, \$200, which shall be deposited in the special  
3 revenue account created by paragraph (B), subdivision (4),  
4 subsection (c), section ten of this article to provide civil legal  
5 services for low income persons;

6       (8) For entering any order by a court on its own motion  
7 transferring any case to the Business Court Division, \$200, which  
8 shall be assessed by the transferring court in equal amounts upon  
9 the parties in the case and which shall be deposited in the special  
10 revenue account created by paragraph (B), subdivision (4),  
11 subsection (c), section ten of this article to provide civil legal  
12 services for low income persons; and

13       (9) For filing any petition or motion in a circuit court to  
14 certify a question or questions to the Supreme Court of Appeals or  
15 any motion for relief from judgment pursuant to Rule 60(b) of the  
16 West Virginia Rules of Civil Procedure, \$100, which shall be  
17 deposited in the special revenue account created by paragraph (B),  
18 subdivision (4), subsection (c), section ten of this article to  
19 provide civil legal services for low-income persons.

20       (b) In addition to the foregoing fees, the following fees  
21 shall be charged and collected:

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

23       (2) For a transcript, copy or paper made by the clerk for use  
24 in any other court or otherwise to go out of the office, for each

1 page, \$1;

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

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

5 (5) For issuing or renewing a suggestee execution and serving  
6 notice to the debtor by certified mail, \$25;

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

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

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

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

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

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

1           (c) In addition to the foregoing fees, a fee for the actual  
2 amount of the postage and express may be charged and collected for  
3 sending decrees, orders or records that have not been ordered by  
4 the court to be sent by mail or express.

5           (d) The clerk shall tax the following fees for services in a  
6 criminal case against a defendant convicted in such court:

7           (1) In the case of a misdemeanor, \$85; and

8           (2) In the case of a felony, \$105, of which \$10 shall be  
9 deposited in the Courthouse Facilities Improvement Fund created by  
10 section six, article twenty-six, chapter twenty-nine of this code.

11           (e) The clerk of a circuit court shall charge and collect a  
12 fee of \$25 per bond for services rendered by the clerk for  
13 processing of criminal bonds and the fee shall be paid at the time  
14 of issuance by the person or entity set forth below:

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

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

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

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

23           (5) For ten-percent recognizance bonds without surety, the fee  
24 shall be paid by the person tendering ten percent of the bail

1 amount.

2       In instances in which the total of the bond is posted by more  
3 than one bond instrument, the above fee shall be collected at the  
4 time of issuance of each bond instrument processed by the clerk and  
5 all fees collected pursuant to this subsection shall be deposited  
6 in the Courthouse Facilities Improvement Fund created by section  
7 six, article twenty-six, chapter twenty-nine of this code. Nothing  
8 in this subsection authorizes the clerk to collect the above fee  
9 from any person for the processing of a personal recognizance bond.

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

16       (g) No clerk is required to handle or accept for disbursement  
17 any fees, cost or amounts of any other officer or party not payable  
18 into the county treasury except on written order of the court or in  
19 compliance with the provisions of law governing such fees, costs or  
20 accounts.

NOTE: The purpose of this bill is to increase certain filing fees in certain civil actions. The bill establishes new filing fees in certain civil actions. The bill requires that those new and increased fees be deposited in the existing Fund for Civil Legal Services for Low-Income Persons. The bill also provides that

a portion be retained by the clerk's office.

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