

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2847

FISCAL
NOTE

2015 Carryover

(BY DELEGATE WALTERS)

[Introduced January 13, 2016; referred to the
Committee on the Judiciary then Finance.]

1 A BILL to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to
 2 amend and reenact §11A-2-2 of said code, all relating to permitting sheriffs to hire outside
 3 attorneys to assist with collection of taxes; sharing costs.

Be it enacted by the Legislature of West Virginia:

1 That §7-5-24 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that §11A-2-2 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 5. FISCAL AFFAIRS.

§7-5-24. Sheriff may commence civil action without paying fees and costs; fees and costs recoverable from defendants after completion of litigation.

1 The sheriff will not be required to pay any filing fee, cost, bond or security, as may
 2 otherwise be required of other civil litigants by provisions of this code, in any action in which the
 3 sheriff commences the action in his or her official capacity or on behalf of the county government:
 4 *Provided*, That where the sheriff or county government prevails in the action and any filing fees,
 5 costs, bond or security are recovered from the opposing party, the sheriff shall pay therefrom the
 6 fees, costs, bond or security to the officer who otherwise would have been entitled thereto but for
 7 the provisions of this section: Provided, however, That any legal fees and costs not so recovered
 8 from the opposing party shall be paid out of the taxes collected prior to the distribution of the taxes
 9 to the various taxing units.

**CHAPTER 11A. COLLECTION AND ENFORCEMENT OF
 PROPERTY TAXES.**

ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.

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

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

5 (b) In any such action, the sheriff ~~shall be~~ is permitted to prosecute the same without
6 paying fees or costs, and without providing bond or security, as may otherwise be required of civil
7 litigants by the provisions of this code, and ~~shall have~~ has all services and process, including the
8 services of witnesses, without paying therefor.

9 (c) The sheriff is permitted to hire an attorney to prosecute the action: *Provided, That*
10 any attorney hired by the sheriff shall be paid an hourly rate and not by a percentage of the taxes
11 collected.

12 (d) ~~Provided, That~~ The sheriff shall maintain for each action for the recovery of
13 delinquent taxes records sufficient to demonstrate the total fees and costs paid and that would
14 have been paid but for the authority provided herein to seek recovery without such payment:
15 ~~*Provided, however,*~~ That where the sheriff recovers delinquent taxes in or as the result of such
16 action, whether by way of settlement or judgment, such fees and costs as above required to be
17 recorded shall be recoverable from the opposite party and upon receipt of any recovery, the sheriff
18 shall pay from the amount recovered such fees or costs to the officer who otherwise would have
19 been entitled thereto but for the provisions of this section: ~~*Provided further,*~~ *however,* That the
20 fees and costs shall be paid prior to payment to the various taxing units of the balance of the
21 recovered taxes: ~~*And Provided further,*~~ That the payment to the various taxing units shall be
22 prorated on the basis of the total amount of taxes due them.

23 (e) Any attorney fees or other costs associated with the collection of taxes, not heretofore
24 provided in subsection (d) above, shall be paid from the taxes collected prior to the distribution to

25 the various taxing units.

NOTE: The purpose of this bill is to permit sheriffs to hire outside attorneys to collect taxes and to share costs.

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