WEST VIRGINIA CODE: §11-8-24

§11-8-24. Petition for review of findings of tax commissioner and levy order; notice of intention to file; intervention; hearing and findings; appeal to Supreme Court of Appeals; refund if liens found excessive; recovery by action.

Any taxpayer or other person legally interested in the levy provided for by section twenty-three hereof, if aggrieved by the findings of the Tax Commissioner and his approval of such levy, and by the laying of such levy by the fiscal body, may have a review of the findings of the Tax Commissioner and the laying of such levy by the circuit court of the county in which the greater part of such taxpayer's or other person's property affected by such levy is situated, by presenting to such circuit court, either in term or to the judge thereof in vacation, within ten days after the entry of the order laying such levy shall have been made by such fiscal body, his petition for such review. Such taxpayer or other person shall give at least five days' notice in writing of his intention to file such petition to the Tax Commissioner, to the prosecuting attorney of the county of the circuit court of the county in which said petition will be presented, and to the presiding officer of the fiscal body laying the levy. Any other person legally interested in the laying or in the disaffirmance of the laying of the levy provided for in the preceding section, may, by petition in writing, intervene in said hearing and be made a party thereto with any and all rights of any other party therein and with any and all rights of any litigant in a chancery cause, insofar as the principles thereof be applicable, including the right of appeal as hereinafter provided for. The circuit court or the judge thereof in vacation shall, insofar as applicable, consider the petition as a bill in equity, and the court or judge shall forthwith, either in term or in vacation, proceed to consider such petition, the estimates and levies, and the findings of the Tax Commissioner, and may hear and consider evidence on behalf of such taxpayer or other person, the fiscal body laying the levy, and any other person interested in the laying of such levy, relating to the necessity and propriety of laying such levies under said section twenty-three, which evidence on the motion of any party appearing therein shall be made a part of the record. Upon such hearing the court or judge may affirm or disaffirm the findings of the Tax Commissioner and the laying of the levy, or may make such modification of such findings and such levies as to the court or judge may appear proper. Whereupon, the levies shall be laid in accordance with the findings of the court or judge as though such findings had been made by the Tax Commissioner, under the provisions of the said section twenty-three hereof. An appeal to the Supreme Court of Appeals of West Virginia from the findings of the circuit court may be had by any party in interest appearing in the hearing, in like manner, so far as applicable, as in an equity cause, by petition for appeal to said supreme court presented to the supreme court or to any judge thereof, or filed in the office of the clerk of the supreme court within two weeks after the entry of the final order of the circuit court therein. Pending final determination of such judicial review, the levies made under section twenty-three shall be laid and the taxes therefrom collected; and if the final determination be that the levies under section twenty-three be in excess of the amounts required for such indebtedness, such excess shall be refunded by the collecting officer on demand to the person from whom it was

WVLegislature

collected as hereinafter provided, or if the final finding be that the levies for current expense of such fiscal body be excessive, the excess thereof shall be transferred from the current expense revenues to the revenues of such indebtedness, if required therefor, and, if not required therefor, the collecting officer shall, upon demand, refund any such excess payment to the person from whom it was collected. If the collecting officer fail to repay the amount, he and his sureties shall be jointly and severally liable for the amount and the costs of recovery. Recovery may be had by summons before a justice or on motion, before the circuit court.

WV Legislature