WEST VIRGINIA CODE CHAPTER 11 ARTICLE 8

WV Legislature

§11-8-1. Declarations.

Whereas, Two former acts of the present Legislature relating to the subject matter and general object of this article have been held by the Supreme Court of Appeals of this state to be unconstitutional for varying reasons, which holdings give rise to the question and doubt as to whether the Tax Limitation Amendment, according to the majority interpretation of its intent and meaning, and in consonance with a like, but differently constituted, majority interpretation of other Constitutional provisions, may be made workable literally and, at the same time, permit provisions to be made for the necessary requirements of governmental expenses; and

Whereas, This Legislature cannot entertain the belief that the voters of this state who, with such practical unanimity, adopted the Tax Limitation Amendment, had in mind that any possible effect or consequence thereof would be to destroy or seriously impair Constitutional government in the state or any political subdivision thereof, but rather that one of its objects and purposes was to enjoin and compel a curtailment and reduction of governmental expenses, and to hold them within reasonable bounds consistent with the economical and efficient administration thereof; and

Whereas, It is the express purpose and object of the provisions hereinafter contained to fully conform with the spirit of said amendment and to provide ample safeguards to insure the strictest economy in the matter of governmental expenditures, to the end that proper agencies of government may not be compelled to abdicate or cease to function, but that in so functioning they shall not entail upon the public any expense which is not absolutely necessary; therefore, the Legislature of West Virginia doth find and declare:

That the provisions of this article hereinafter contained are as it verily believes fully within the spirit of said amendment and the several judicial interpretations thereof, and that by means thereof said amendment may be found to be workable in its practical application.

WV Legislature

§11-8-2. Legislative findings.

The Legislature, having carefully analyzed the fiscal affairs of the state and its political subdivisions with particular reference to the reduction of the outstanding bonded debt of political subdivisions incurred prior to the adoption of the Tax Limitation Amendment, finds:

(1) That the total outstanding bonded indebtedness of subdivisions of the state incurred prior to the adoption of the Tax Limitation Amendment has been reduced since the year 1939-1940, by approximately sixty-five percent and the annual requirements of service upon bonded debt have been reduced by completed amortizations from slightly less than $6,500,000 in that year, to approximately $2,300,000 for the fiscal year beginning on July 1, 1949, according to findings certified to the Legislature by the state sinking fund commission.

(2) That it is therefore now possible to adjust the allocation of levies to redistribute so much of the rates previously allocated for debts incurred prior to the adoption of the Tax Limitation Amendment as represent debts completely liquidated, so as to meet the increased levying requirements of county courts, boards of education, and municipalities, and that such adjustment is in keeping with sound finance, the preservation of local fiscal responsibility for local services, and the intention of the Tax Limitation Amendment.

WV Legislature

§11-8-3. Purposes.

In order that the revenue to be derived from taxes to be assessed upon real and personal and public utility property throughout the state may be apportioned among the levying units of the state in such manner that the said apportionment shall not exceed the maximum levies that may be assessed upon each respective class of property as defined by the Tax Limitation Amendment, and

In order, further, that the taxes to be assessed shall be levied and collected with uniformity coextensive with the territory of the taxing unit within which such taxes are to be levied and collected, without interference by one taxing unit with the right of another such unit to levy and collect taxes for its purposes and within its territorial extent, and

In order, further, that the taxing units throughout the state may be furnished with the means of providing (1) the sinking fund and interest requirements of their now existing indebtedness, and (2) the requirements of their respective current operating expenses, this article is hereby enacted.

The purpose of this article is to provide the maximum rates for the levies which may be laid by the several taxing units in the state within the limitations of the Tax Limitation Amendment and to provide for the application of the taxes derived therefrom first to the payment of legal contractual indebtedness and then to the maintenance of indispensable governmental functions as herein provided.

WV Legislature

§11-8-4. Definition of taxing units.

The taxing units of the state for the purposes of this article are declared to be (1) the state, (2) the county, for all county purposes including indebtedness other than school indebtedness, (3) present school districts for current school purposes, (4) school districts existing prior to May 22, 1933, for school debt service purposes, (5) magisterial and other road districts for road and other debt service purposes other than county road debts, (6) other specially created taxing districts for indebtedness existing at the time of the adoption of the Tax Limitation Amendment, (7) municipalities for municipal purposes including municipal debt service purposes.

WV Legislature

§11-8-5. Classification of property for levy purposes.

For the purpose of levies, property shall be classified as follows:

Class I. All tangible personal property employed exclusively in agriculture, including horticulture and grazing;

All products of agriculture (including livestock) while owned by the producer;

All notes, bonds, bills and accounts receivable, stocks and any other intangible personal property;

Class II. All property owned, used and occupied by the owner exclusively for residential purposes;

All farms, including land used for horticulture and grazing, occupied and cultivated by their owners or bona fide tenants;

Class III. All real and personal property situated outside of municipalities, exclusive of Classes I and II;

Class IV. All real and personal property situated inside of municipalities, exclusive of Classes I and II.

WV Legislature

§11-8-5a. Classification of forestry property for levy purposes.

(a) The purpose of this section is to support West Virginia's forestry industry by classifying forestry equipment as Class I property, recognizing forestry as a component of agriculture essential to the state's economy.

(b) For the purposes of property tax classification under §11-8-5 of this code and consistent with Article X, Section 1 of the West Virginia Constitution, forestry equipment primarily used in the harvesting, processing, or transportation of forest products shall be considered personal property employed exclusively in agriculture and classified as Class I property: *Provided*, That the equipment is owned by the producer of the forest products.

(c) Forestry equipment shall include, but not be limited to:

(1) Skidders, feller-bunchers, forwarders, cable yarders, forestry processors, dozers, and loaders; and

(2) Trailers and other machinery.

(d) For purposes of this article, forestry equipment may not include any vehicles which would not qualify for a farm use exemption certificate pursuant to §17A-3-2 of this code.

(e) This section shall take effect on July 1, 2026.

WV Legislature

§11-8-6. Aggregate of taxes on different classifications; taxing units authorized to lay levies.

The aggregate of taxes assessed in any one year by all levying bodies, except as provided by section twenty-three of this article, shall not exceed 50¢ on each one hundred dollars' assessed valuation on Class I property; $1 on Class II property; $1.50 on Class III property; and $2 on Class IV property.

The fiscal bodies of the taxing units of the state are hereby authorized to lay levies within the limitations of the "Tax Limitation Amendment" for the purposes and subject to the several maximums specified by sections six-a to seven, inclusive, of this article.

WV Legislature

§11-8-6a. Levies on each classification by Board of Public Works.

The State Board of Public Works shall levy as provided by section eight as follows:

On Class I property, twenty-five hundredths of 1¢; on Class II property, five- tenths of 1¢; and on Classes III and IV property, 1¢.

WV Legislature

§11-8-6b. Maximum levies on each classification by county courts; order of levies.

County courts are hereby authorized to lay not in excess of the following maximum levies, for the purposes specified and in the following order:

(1) With respect to the county as a whole for the payment of (a) interest and sinking fund requirements for bonded indebtedness incurred prior to the adoption of the Tax Limitation Amendment; and (to the extent not so required), (b) other legally incurred contractual indebtedness, not bonded, if any, incurred prior to the adoption of the Tax Limitation Amendment, of the county as follows: On Class I property, twenty-five one hundredths of 1¢; on Class II property, one half of 1¢; and on Classes III and IV property, 1¢.

(2) With respect to a magisterial or special taxing district for which the county court is required to lay the levy, for the payment of (a) interest and sinking fund requirements for bonded indebtedness, incurred prior to the adoption of the Tax Limitation Amendment; and (to the extent not so required), (b) other legally incurred contractual indebtedness not bonded, if any, incurred prior to the adoption of the Tax Limitation Amendment, as follows: On Class I property, two and fifteen one hundredths cents; on Class II property, four and three tenths cents; and on Classes III and IV property, eight and six tenths cents.

(3) For general county current expense as follows: On Class I property, eleven and nine tenths cents; on Class II property, twenty-three and eight tenths cents; and on Classes III and IV property, forty-seven and six tenths cents. But in a county where the total assessed valuation of all classes of property is less than $6 million, the county court may, with the prior written approval of the Tax Commissioner, exceed the rates of levy for general county current expense by not more than twenty-five percent of the rates specified: Provided, however, That if the rates of levy under paragraph (3) of this section are not required in whole or in part for the purpose for which they are allocated, the county court may, with the prior written approval of the State Tax Commissioner, surrender to the county board of education such unused parts of the authorized rates of levy as provided herein.

www.legislature

§11-8-6c. Maximum levies on each classification by county boards of education; order of levy; exceeding levy for school bond issues.

County boards of education are hereby authorized to lay not in excess of the following maximum levies, for the purposes specified and in the following order:

(1) With respect to a magisterial, independent or other school district existing in a county prior to May 22, 1933, or any special taxing district for which the board of Education is required to lay the levy, for the payment of (a) interest and sinking fund requirements for bonded indebtedness incurred prior to the adoption of the Tax Limitation Amendment; and (to the extent not so required), (b) other legally incurred contractual indebtedness not bonded, if any, incurred prior to the adoption of the Tax Limitation Amendment as follows: On Class I property, thirty-five one hundredths of 1¢; on Class II property, seven tenths of 1¢; and on Classes III and IV property, one and four tenths cents.

(2) For either or both of (a) the permanent improvement fund, and (b) the payment of interest and sinking fund requirements for bonded indebtedness incurred subsequent to the adoption of the Tax Limitation Amendment, as follows: On Class I property, one and five tenths cents; on Class II property, 3¢; and on Classes III and IV property, 6¢.

(3) For the general current expenses of schools as follows: On Class I property, twenty-one and one tenth cents; on Class II property, forty-two and two tenths cents; and on Classes III and IV property, eighty-four and four tenths cents. But if the Tax Commissioner has approved the levy of an additional amount for the general current expenses of the county as authorized by section six-b, subsection three, the amount of the levy authorized for boards of education by this subsection shall be reduced by the Tax Commissioner to that extent.

If the rates of levy under paragraph (2) above are not required in whole or in part for the purposes for which they are allocated by this section, the county board of education may, with the prior written approval of the state board of school finance, created by section three, article nine-b, chapter eighteen of the code, as amended, lay such rates of levy or portion thereof not so required, for the general current expenses of schools: Provided, however, That if the rates of levy under paragraph (3) of this section are not sufficient for the purposes for which they are allocated, the county board of education may, with the prior written approval of the State Tax Commissioner, lay such additional rates of levy, or portion thereof, as are surrendered by the county court under paragraph (3), section six-b of this article: Provided further, That a county board of education shall be required to levy outside the levy rates hereinabove provided sufficient to pay the principal and interest requirements on bonds now or hereafter issued by any school district not exceeding in the aggregate five per centum of the assessed value of all taxable property in the county school district, to be ascertained by the last assessment for state and county taxes, previous to the incurring of such indebtedness, in the manner provided by the "Better Schools Amendment," as ratified.

WV Legislature

§11-8-6d. Maximum levies on each classification by municipalities; order of levy.

The governing body of a municipality is hereby authorized to lay not in excess of the following maximum levies, for the purposes specified, and in the following order:

(1) For the payment of (a) principal and interest upon bonded indebtedness incurred prior to the adoption of the Tax Limitation Amendment; and to the extent not so required, (b) other legally incurred contractual indebtedness, not bonded, if any, incurred prior to the adoption of the Tax Limitation Amendment, as follows: On Class I property, one and five tenths cents; on Class II property, 3¢; and on Class IV property, 6¢.

(2) For general current expense purposes, as follows: On Class I property, 11¢; on Class II property, 22¢; and on Class IV property, 44¢.

WV Legislature

§11-8-6e. Effect on regular levy rate when appraisal results in tax increase; public hearings.

(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal, or general valuation of property would produce an assessment that would cause an increase of one percent or more in the total projected property tax revenues that would be realized were the then current regular levy rates by the county commission and the municipalities to be imposed, the rate of levy shall be reduced proportionately as between the county commission and the municipalities and for all classes of property for the forthcoming tax year so as to cause such rate of levy to produce no more than 101 percent of the previous year's projected property tax revenues from extending the county commission and municipality levy rates, unless there has been compliance with subsection (c) of this section.

An additional appraisal or valuation due to new construction or improvements to existing real property, including beginning recovery of natural resources, and newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in the reduced levy calculation set forth in subsection (b) of this section.

(b) The reduced rates of levy shall be calculated in the following manner:

(1) The total assessed value of each class of property as it is defined by §11-8-5 of this code for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property;

(2) The resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Class III and IV, each by .04;

(3) Total the current year's property tax revenue resulting from regular levies for each county commission and municipality and multiply the resulting sum by 101 percent: *Provided*, That the 101 percent figure shall be increased by the amount of the county's or municipality's increased levy provided for in §11-1C-8(b) of this code: *Provided, however*, That any county or municipality with no levy rate in the current year will instead use the next most recent preceding year for which a levy rate existed;

(4) Divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by 100; the resulting number is the Class I regular levy rate, stated as cents-per-one hundred dollars of assessed value;

(5) The Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

WV Legislature

(c) The governing body of a county or municipality may, after conducting a public hearing, which may be held at the same time and place as the annual budget hearing, increase the rate above the reduced rate required in this section if any such increase is deemed to be necessary by such governing body: *Provided*, That in no event shall the governing body of a county or municipality increase the rate above the reduced rate required by subsection (b) of this section for any single year in a manner which would cause total property tax revenues accruing to the governing body of the county or municipality, excepting additional revenue attributable to assessed valuations of newly created properties not assessed in the previous year's tax book for each class of property, to exceed by more than 10 percent those property tax revenues received by the governing body of the county or municipality for the next preceding year: *Provided, however*, That this provision shall not restrict the ability of a county or municipality to enact excess levies as authorized under existing statutory or constitutional provisions: *Provided further*, That this provision does not restrict the ability of a county or municipality to issue bonds and enact sufficient levies to pay for such bonds pursuant to §13-1-1 *et seq.* of this code when such issuance has been approved by an election administered pursuant to that article.

Notice of the public hearing and the meeting in which the levy rate shall be on the agenda shall be given at least seven days before the date for each public hearing by the publication of a notice in at least one newspaper of general circulation in such county or municipality: *Provided*, That a Class IV town or village as defined in §8-1-2 of this code, in lieu of the publication notice required by this subsection, may post no less than four notices of each public hearing, which posted notices shall contain the information required by the publication notice and which shall be in available, visible locations including the town hall. The notice shall be at least the size of one-eighth page of a standard size newspaper or one-fourth page of a tabloid-size newspaper and the headline in the advertisement point. The publication notice shall be placed outside that portion, if any, of the newspaper reserved for legal notices and classified advertisements and shall also be published as a Class II-0 legal advertisement in accordance with the provisions of §59-3-1 *et seq.* of this code. The publication area is the county. The notice shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

NOTICE OF PROPOSED TAX INCREASE.

The (name of the county or municipality) proposes to increase property tax levies.

1. Appraisal/Assessment Increase: Total assessed value of property, excluding additional assessments due to new or improved property, exceeds last year's total assessed value of property by ..... percent.

2. Lowered Rate Necessary to Offset Increased Assessment: The tax rate which would levy the same amount of property tax as last year, when multiplied by the new total assessed value of property with the exclusions mentioned above, would be $..... per $100 of assessed value for Class I property, $..... per $100 of assessed value for Class II property, $..... per

www.legislature

$100 of assessed value for Class III and $..... per $100 of assessed value for Class IV property. These rates will be known as the "lowered tax rates".

3. Effective Rate Increase: The (name of the county or municipality) proposes to adopt a tax rate of $..... per $100 of assessed value for Class I property, $..... per $100 of assessed value for Class II property, $..... per $100 of assessed value for Class III property and $..... per $100 of assessed value for Class IV property. The difference between the lowered tax rates and the proposed rates would be $..... per $100, or ..... percent for Class I; $..... per $100, or ..... percent for Class II; $..... per $100, or ..... percent for Class III and $..... per $100, or ..... percent for Class IV. These differences will be known as the "effective tax rate increases".

Individual property taxes may, however, increase at a percentage greater than or less than the above percentage.

4. Revenue produced last year: $.....

5. Revenue projected under the effective rate increases: $.....

6. Revenue projected from new property or improvements: $.....

7. General areas in which new revenue is to be allocated: A public hearing on the increases will be held on (date and time) at (meeting place). A decision regarding the rate increase will be made on (date and time) at (meeting place).

(d) All hearings are open to the public. The governing body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as are determined by the governing body.

(e) This section shall be effective as to any regular levy rate imposed by the county commission or a municipality for taxes due and payable on or after July 1, 1991. If any provision of this section is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

WV Legislature

§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.

(a) Notwithstanding any other provision of law, where any annual appraisal, triennial appraisal or general valuation of property would produce a statewide aggregate assessment that would cause an increase of two percent or more in the total property tax revenues that would be realized were the then current regular levy rates of the county boards of education to be imposed, the rate of levy for county boards of education shall be reduced uniformly statewide and proportionately for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no more than one hundred two percent of the previous year's projected statewide aggregate property tax revenues from extending the county board of education levy rate, unless subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The total assessed value of each class of property as it is defined by section five of this article for the assessment period just concluded shall be reduced by deducting the total assessed value of newly created properties not assessed in the previous year's tax book for each class of property; (2) the resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue resulting from regular levies for the boards of education throughout this state and multiply the resulting sum by one hundred two percent: Provided, That the one hundred two percent figure shall be increased by the amount the boards of education's increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated as cents-per-one hundred dollars of assessed value; and (5) the Class II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding subdivision.

An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of the improvements be included in calculating the new tax levy for purposes of this section. Special levies shall not be included in any calculations under this section.

(b) After conducting a public hearing, the Legislature may, by act, increase the rate above the reduced rate required in subsection (a) of this section if an increase is determined to be necessary.

(c) The State Tax Commissioner shall report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability by March 1 of each year on the progress of assessors in each county in assessing properties at the Constitutionally required sixty percent of market value and the effects of increasing the limit on the increase in total property tax revenues set forth in this section to two percent.

(d) Growth County School Facilities Act. -- Legislative findings. --

The Legislature finds and declares that there has been, overall, a statewide decline in enrollment in the public schools of this state; due to this decline, most public schools have ample space for students, teachers and administrators; however, some counties of this state have experienced significant increases in enrollment due to significant growth in those counties; that those counties experiencing significant increases do not have adequate facilities to accommodate students, teachers and administrators. Therefore, the Legislature finds that county boards of education in those high-growth counties should have the authority to designate revenues generated from the application of the regular school board levy due to new construction or improvements placed in a Growth County School Facilities Act Fund be used for school facilities in those counties to promote the best interests of this state's students.

(1) For the purposes of this subsection, "growth county" means any county that has experienced an increase in second month net enrollment of fifty or more during any three of the last five years, as determined by the state Department of Education.

(2) The provisions of this subsection shall only apply to any growth county, as defined in subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use the provisions of this subsection.

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The statewide regular school board levy rate as established by the Legislature shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth County School Facilities Act Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated by the county board of education for construction, maintenance or repair of school facilities. Revenues in the fund may be carried over for an indefinite length of time and may be used as matching funds for the purpose of obtaining funds from the School Building Authority or for the payment of bonded indebtedness incurred for school facilities. For any growth county choosing to use the provisions of this subsection, estimated school board revenues generated from application of the regular school board levy rate to new property values are not to be considered as local funds for purposes of the computation of local share under the provisions of section eleven, article nine-a, chapter eighteen of this code.

(e) This section, as amended during the legislative session in the year 2004, shall be effective as to any regular levy rate imposed for the county boards of education for taxes due and payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect other provisions or applications of this section which can be given

WV Legislature

effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

WV Legislature

§11-8-6g. Effect on special levy rates when appraisal results in tax revenue increase; public hearings.

(a) Until July 1, 1995, as to any special levy in effect prior to that date, and notwithstanding any other provision of law to the contrary, where any annual appraisal, triennial appraisal or general valuation of property would produce an assessment that would cause an increase of four percent or more in the total projected property tax revenues that would be realized were the special levy rates then in effect by the county commission, the municipalities or the county board of education to be imposed, the local levying body shall comply with subsection (b) of this section and may reduce the rate of special levy in accordance with the provisions of subsection (d) of this section until July 1, 1995. After July 1, 1995, each levying body shall adopt only the levy rate which is specified and approved in the levy ballot: Provided, That if the special levy ballot provision authorizes the levying body to reduce the rate of special levy, such rate may be reduced in accordance with the special levy ballot provision.

An additional appraisal or valuation due to new construction or improvements to existing real property, including beginning recovery of natural resources, and newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of such improvements be included in calculating the new tax levy for purposes of this section.

(b) Any local levying body projected to realize such increase greater than four percent shall conduct a public hearing no later than March 20 in the years 1994 and 1995, which hearing may be held at the same time and place as the annual budget hearing. Notice of the public hearing and the meeting in which the levy rate shall be on the agenda shall be given at least seven days before the date for each public hearing by the publication of a notice in at least one newspaper of general circulation in such county or municipality: Provided, That a Class IV town or village as defined in section two, article one, chapter eight of this code, in lieu of the publication notice required by this subsection, may post no less than four notices of each public hearing, which posted notices shall contain the information required by the publication notice and which shall be in available, visible locations including the town hall. The notice shall be at least the size of one-eighth page of a standard size newspaper or one-fourth page of a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than twenty-four point. The publication notice shall be placed outside that portion, if any, of the newspaper reserved for legal notices and classified advertisements and shall also be published as a Class II-O legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code. The publication area is the county. The notice shall be in the following form and contain the following information, in addition to such other information as the local governing body may elect to include:

HEARING REGARDING SPECIAL LEVY RATES

The (name of the local levying body) hereby gives notice that the special levy rate imposed by the (local levying body) causes an increase in property tax revenues due to increased valuations.

WV Legislature

1. Appraisal/Assessment Increase: Total assessed value of property, excluding additional assessments due to new or improved property, exceeds last year's total assessed value of property by ..... percent.

2. Current Year's Revenue Produced Under Special Levy:

3. Projected Revenue Under Special Levy for Next Tax Year:

4. Revenue Projected from New Property or Improvements: $.....

5. General areas in which new revenue is to be allocated:

A public hearing on the issue of special levy rates will be held on (date and time) at (meeting place). A decision regarding the special levy rate will be made on (date and time) at (meeting place).

Notwithstanding any other provision of this subsection to the contrary, for the year 1993 only, any local levying body required to conduct a public hearing due to a four-percent increase as set forth in this subsection projected for the next fiscal year shall hold the public hearing prior to May 6, shall only be required to publish a Class I legal advertisement in accordance with the provisions of article three, chapter fifty-nine of this code, and need not provide such notice at least seven days before the date of the hearing as required in this subsection: Provided, That a Class IV town or village may provide notice as otherwise set forth in this subsection: Provided, however, That any public hearings held pursuant to the provisions of this section in the year 1993 prior to the effective date of this section are hereby ratified and confirmed as having full force and effect: Provided further, That no county commission or municipality shall be required to hold a public hearing as required by this section during the year 1993 for the fiscal year 1994.

(c) All hearings are open to the public, and the local levying body shall permit persons desiring to be heard an opportunity to present oral testimony within such reasonable time limits as are determined by the governing body. A decision regarding the special levy rate shall be made within ten days of the hearing.

(d) For the fiscal years beginning on July 1, 1993, 1994 and 1995, as to any special levy in effect prior to July 1, 1995, a local levying body may reduce the rate of the special levy for all classes of property for the forthcoming tax year so as to cause such rate of special levy to produce no more than one hundred four percent of the previous year's projected property tax revenues from extending such special levy rates or such lesser reduction the local levying body considers adequate: Provided, That no levying body shall reduce any special levy if such levy rate has been covenanted or otherwise dedicated and is necessary to the payment of bonds or other obligations existing as of the effective date of this section: Provided, however, That nothing contained in this subsection shall be construed to limit the reduction of the levy rate when the terms of the special levy permit a lower reduction: Provided further, That this provision shall not restrict the ability of a local levying body to

WV Legislature

enact excess levies as authorized under existing statutory or Constitutional provisions.

(e) If any provision of this section is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or its application and to this end the provisions of this section are declared to be severable.

WV Legislature

§11-8-7. Increase of current expense levies when debt levies not required.

If the allocation made to a taxing unit for the purposes of debt incurred prior to the adoption of the Tax Limitation Amendment is not required, in whole or in part, for the purposes of such debt, the governing body may, with the prior written approval of the Tax Commissioner, increase the rates allocated for general current expenses by the amount not required for debt purposes.

WV Legislature

§11-8-8. Levies by board of public works; certification.

The state board of public works shall, on or before April 15 of each year, levy on the one hundred dollars' valuation of each class of property subject to taxation in the state the rates fixed by section six-a of this article. The board shall forthwith certify its action to the State Tax Commissioner and to the assessor of each county.

WV Legislature

§11-8-9. Meetings of local levying bodies.

(a) Each local levying body shall hold a meeting or meetings between March 7 and March 28 for the transaction of business generally and particularly for the business herein required.

(b) When a levy is placed on the ballot for consideration during a primary election, each local levying body may extend its time to meet as a levying body until June 1 of that year.

(c) The State Auditor shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the purposes of this subsection. The proposed rules shall include a procedure for a local levying body to apply for permission to extend the time to meet as a levying body, requiring the local levying body to cite the reason a timely meeting was not held and that the meeting, if approved by the State Auditor, be held in compliance with §6-9A-1 *et seq.* of this code relating to open governmental proceedings at a time set by the State Auditor.

(1) The State Auditor shall require all levying bodies to file a report of their meetings as required in this article with the State Auditor on or before April 1.

(2) The State Auditor shall notify any levying body that has not filed a report of its meetings to the State Auditor by April 1 that the levying body must meet and file a report of that meeting no later than April 15.

(3) For any meeting after April 15, the State Auditor may allow a late meeting and late report if the State Auditor finds good cause to so allow a meeting and report to be filed after April 15.

WV Legislature

§11-8-10. Levy estimate by county court; certification to Tax Commissioner and publication.

The county court shall, at the session provided for in section nine of this article, ascertain the fiscal condition of the county, and make an itemized statement setting forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year upon the county as a whole and upon any district of the county for which the levies are laid by the county court;

(2) The interest, sinking fund and amortization requirements for the current fiscal year of bonded indebtedness legally incurred upon a vote of the people, as provided by law, prior to the adoption of the Tax Limitation Amendment, owing by the county as a whole and by any district;

(3) Other contractual indebtedness not bonded, legally incurred prior to the adoption of the Tax Limitation Amendment, owing by the county as a whole and such debts owing by any district;

(4) All other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(5) The total amount necessary to be raised for each fund by the levy of taxes for the current year;

(6) The proposed county levy in cents on each one hundred dollars' assessed valuation of each class of property for the county and its subdivisions;

(7) The proposed levy in each district for district funds, if any, on each one hundred dollars' valuation of each class of property;

(8) The separate and aggregate amounts of the real, personal and public utility properties in each class in the county and in each subdivision thereof.

A copy of the statement, duly certified by the clerk of the court, shall be forwarded to the Tax Commissioner, and the clerk shall publish the statement forthwith. The session shall then stand adjourned until the third Tuesday in April, at which time it shall reconvene.

WV Legislature

§11-8-10a. Adjourned session of county court to hear objections to proposed levies; approval of estimate and levy by Tax Commissioner; first levy for bonded indebtedness, second for indebtedness not bonded, then for current expenses.

The county court shall, when it reconvenes upon the third Tuesday in April, hear and consider any objections made orally or in writing by the prosecuting attorney, by the Tax Commissioner or his representative, or by any taxpayer of the county, to the estimate and proposed levy or to any item thereof. The court shall enter of record any objections so made and the reasons and grounds therefor.

The failure of any officer or taxpayer to offer objections shall not preclude him from pursuing any legal remedy necessary to correct any levy made by any fiscal body under this article.

The court, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the Tax Commissioner. When the same shall have been approved by the Tax Commissioner, the clerk shall then enter the estimate and levy, together with the order of the court approving them and the written approval of the Tax Commissioner thereof, in the proper record book.

The county court shall then levy as many cents per one hundred dollars' assessed valuation on each class of property in the county or its subdivisions, as the case may be, as will produce the amounts, according to the last assessments, shown to be necessary by the statement in the following order:

First, for the bonded debt and for the contractual debt not bonded, if any, of the county incurred prior to the adoption of the Tax Limitation Amendment;

Second, for the bonded debt and for the contractual debt not bonded, if any, of any magisterial or special taxing district for which the county court is required to lay the levy;

Third, for general current expenses of the county.

The rates of levy for each purpose shall not exceed the amounts fixed by section six-b unless another rate is authorized by the Tax Commissioner in accordance with this article. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as the maximum authorized.

WV Legislature

§11-8-11. Certification of levy order; duties of clerk, assessor and collecting officer; delinquent lists.

When an order is made for a levy the clerk of the court, within three days, shall prepare, certify and forward copies to the Tax Commissioner, the State Auditor, the assessor and the officer who, according to law, is required to collect the levy. He shall charge the collecting officer with the amount of the levy in the proper account book. The assessor shall immediately extend the taxes in the land and personal property books. The officer who is required to collect the levy shall make out proper tax bills. County levies shall be collected by the sheriff at the same time, in the same manner, and under the same regulations as other taxes are collected. Delinquent lists for county levies shall be returned and delinquent lands sold for county levies in the same manner and at the same place and under the same regulations that lands returned delinquent for state taxes are returned and sold.

WV Legislature

§11-8-12. Levy estimate by board of education; certification and publication.

Each board of education shall, at the session provided for in section nine of this article, if the laying of a levy has been authorized by the voters of the district under article nine, chapter eighteen of the code, ascertain the condition of the fiscal affairs of the district, and make a statement setting forth:

(1) The amount due, and the amount that will become due and collectible during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness legally incurred upon a vote of the people, as provided by law, by any school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment, owing by such district;

(4) The amount to be levied for the permanent improvement fund;

(5) The total of all other expenditures to be paid out of the receipts for the current fiscal year, with proper allowance for delinquent taxes, exonerations and contingencies;

(6) The amount of such total to be raised by the levy of taxes for the current fiscal year;

(7) The proposed rate of levy in cents on each $100 assessed valuation of each class of property;

(8) The separate and aggregate amounts of the assessed valuation of real, personal and public utility property within each class.

The secretary of the board shall forward immediately a certified copy of the statement to the Auditor and shall publish the statement immediately. The session shall then stand adjourned until the third Tuesday in April, at which time it shall reconvene except where otherwise permitted by section nine of this article: Provided, That no provision of this section or section nine of this article may be construed to abrogate any requirement imposed on the board of education by article nine-b, chapter eighteen of this code.

WV Legislature

§11-8-12a. Adjourned session of board of education to hear objections to proposed levies; approval of estimate and levy by Tax Commissioner; first levy for bonded and other indebtedness and indebtedness not bonded, second for Permanent Improvement Fund, then for current expenses.

Each board of education, when it reconvenes as provided by section twelve of this article, shall proceed in a manner similar in all respects to that provided for in section ten-a of this article. The board may not finally enter any levy until it has been approved in writing by the Auditor. After receiving the approval, the board shall enter the statement as approved in its record of proceedings, together with the written approval.

The board shall levy as many cents per $100 assessed valuation on each class of property in the county or in the area of a preexisting school district, as the case may be, as will produce the amounts, according to the last assessment, shown to be necessary by the statement in the following order:

First, for the bonded debt and for the contractual debt not bonded, if any, of any school district of the county existing before May 22, 1933, and incurred before the adoption of the Tax Limitation Amendment;

Second, for the Permanent Improvement Fund;

Third, for general current expenses.

The rates of levy for each purpose may not exceed the amounts fixed by section six-c unless another rate is authorized by the Tax Commissioner or set by the Legislature in accordance with this article. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as the maximums authorized.

WV Legislature

§11-8-13. Certification of levy order to Tax Commissioner and county superintendent; reports by superintendent of levies; extension and collection of levies.

Within three days after the board of Education has laid the levies, the secretary of the board shall forward to the county superintendent and to the Tax Commissioner certified copies of the orders laying levies and the rate of levy upon each class. Within three days thereafter the county superintendent shall report the rate of levy for each of the various classes and the total value of real, personal, and public utility property in each class in every district to the clerk of the county court, the assessor, the state superintendent and the Auditor. The proper county officers shall then extend on the property books the amount of taxes levied. The sheriff shall collect and account for the taxes as required by law.

WV Legislature

§11-8-14. Levy estimate by municipality; certification to Tax Commissioner and publication.

A municipal governing body shall, at the session provided for in section nine, ascertain the fiscal condition of the corporation, and make an itemized statement setting forth:

(1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;

(2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law, prior to the adoption of the Tax Limitation Amendment;

(3) Other contractual indebtedness, not bonded, legally incurred prior to the adoption of the Tax Limitation Amendment, owing by the municipality;

(4) All other expenditures to be paid out of the receipts of the municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;

(5) The total amount necessary to be raised by the levy of taxes for the current fiscal year;

(6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property; and

(7) The separate and aggregate assessed valuations of real, personal and public utility property in each class in the municipality.

The recording officer of the municipality shall forward immediately a certified copy of the statement to the Tax Commissioner, and shall publish the statement forthwith. The session shall then stand adjourned until the third Tuesday in April, at which time it shall reconvene.

WV Legislature

§11-8-14a. Adjourned session of municipal governing body to hear objections; approval of levies by Tax Commissioner; first levy for bonded indebtedness and indebtedness not bonded, then for current expenses.

The governing body of a municipality when it reconvenes on the third Tuesday in April shall proceed in a manner similar in all respects to that provided for in section ten-a of this article.

The governing body shall not finally enter any levy until it has been approved in writing by the State Tax Commissioner. After receiving such approval, the governing body shall enter the statement as approved in its record of proceedings, together with the written approval.

The governing body shall levy as many cents per hundred dollars' assessed valuation on each class of property in the municipality as will produce the amounts, according to the last assessment, shown to be necessary by the statement in the following order:

First, for the bonded debt and for the contractual debt not bonded, if any, of the municipality incurred prior to the adoption of the Tax Limitation Amendment;

Second, for general current expenses.

The rates of levy for each purpose shall not exceed the amounts fixed by section six-d unless another rate is authorized by the Tax Commissioner in accordance with this article. When less than the maximum levies are imposed, the levies on each class of property shall be in the same proportions as the maximums authorized.

WV Legislature

§11-8-14b. Levy of additional tax.

The governing body of any municipality may impose any tax not theretofore levied, or may increase any tax theretofore levied, and may make said tax or increase effective as of the date of the adoption of the ordinance imposing or increasing said tax, or as of any date thereafter specified in the ordinance regardless of whether or not said tax or the increase thereof is included within the levy estimate for the current or ensuing fiscal year, provided for in section fourteen of this article: Provided, That when said tax or increase is not included within such levy estimate, such tax or increase shall not be imposed until such levy estimate is revised in accordance with the provisions of section twenty-six-a hereof. If such tax or increase is continued in effect during subsequent fiscal years, it shall thereafter be included in the levy estimate.

WV Legislature

§11-8-15. Certification of municipal levies.

Within three days after the council of a municipality has laid the levies, its recording officer shall forward certified copies of the order laying the levies to the Tax Commissioner, the State Auditor and the officer whose duty it is to extend the levies.

WV Legislature

§11-8-16. What order for election to increase levies to show; vote required; amount and continuation of additional levy; issuance of bonds.

A local levying body may provide for an election to increase the levies by entering on its record of proceedings an order setting forth:

(1) The purpose for which additional funds are needed;

(2) The amount for each purpose;

(3) The total amount needed;

(4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;

(5) The proposed additional rate of levy in cents on each class of property;

(6) The proposed number of years, not to exceed five, to which the additional levy applies;

(7) The fact that the local levying body shall or shall not issue bonds, as provided by this section, upon approval of the proposed increased levy.

The local levying body shall submit to the voters within their political subdivision the question of the additional levy at either a regularly scheduled primary or general election in accordance with the requirements of §3-1-31 of this code. If at least 60 percent of the voters cast their ballots in favor of the additional levy, the county commission or municipality may impose the additional levy. If at least a majority of voters cast their ballot in favor of the additional levy, the county board of education may impose the additional levy: *Provided*, That any additional levy adopted by the voters, including any additional levy adopted prior to the effective date of this section, shall be the actual number of cents per each $100 of value set forth in the ballot provision, which number shall not exceed the maximum amounts prescribed in this section, regardless of the rate of regular levy then or currently in effect, unless such rate of additional special levy is reduced in accordance with the provisions of §11-8-6g of this code or otherwise changed in accordance with the applicable ballot provisions. For county commissions, this levy shall not exceed a rate greater than seven and fifteen hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For municipalities, this levy shall not exceed a rate greater than six and twenty-five hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For county boards of education, this levy shall not exceed a rate greater than twenty-two and ninety-five hundredths cents for each $100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II

www.Legislature

properties.

Levies authorized by this section shall not continue for more than five years without resubmission to the voters.

Upon approval of an increased levy as provided by this section, a local levying body may immediately issue bonds in an amount not exceeding the amount of the increased levy plus the total interest thereon, but the term of the bonds shall not extend beyond the period of the increased levy.

Insofar as they might concern the issuance of bonds as provided in this section, the provisions of §13-1-3 and §13-1-4 of this code shall not apply.

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

WV Legislature

§11-8-16A.

Repealed.

Acts, 2014 Reg. Sess., Ch. 47.

WV Legislature

§11-8-17. Special levy elections; notices; conduct of election; supplies; canvass of returns; form of ballot.

(a) The local levying body shall publish a notice, calling the election, as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for such publication shall be the territory in which the election is held. Such notice shall be so published within 14 consecutive days next preceding the election.

(b) All the provisions of the law concerning general elections shall apply so far as they are practicable: *Provided*, That notwithstanding any provision of this code to the contrary, in the case of a levy which expires at a time after July 1, 2022, and which shall not be up for renewal at the next regularly scheduled primary or general election thereafter, the local levying body shall by ordinance choose to hold the election to renew that levy either at the next regularly scheduled primary or general election in accordance with §3-1-31 of this code: *Provided, however*, That notwithstanding any other provision of this code, a local levying body may enter an order authorizing a special election prior to the expiration of the existing or expiring levy for the purpose of presenting to the voters the question of synchronizing the renewal of an existing or expiring levy with a future regularly scheduled primary or general election, which question shall pass upon adoption by a majority of participating voters.

(c) The question on the special levy shall be placed on the ballot in accordance with the ballot placement order prescribed by §3-5-13a(a) of this code. The question heading shall be entitled: "Special Levy Election" and the question shall be significantly in the following form: "Special election to authorize additional levies for the year(s) _____ and for the purpose of _____ according to the order of the _____ entered on the _____ day of _____."

The additional levy shall be on Class I property _____ cents; on Class II property _____ cents; on Class III property (if any) _____ cents; on Class IV property (if any) _____ cents.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

WV Legislature

§11-8-18. Tax commissioner to furnish forms of statements and Attorney General to furnish forms for elections.

The Tax Commissioner shall prepare and furnish forms and instructions for making the statement required in sections ten, twelve, and fourteen of this article. The Attorney General shall prepare and furnish forms and instructions for the holding of any election authorized by this article.

WV Legislature

§11-8-19.

Repealed.

Acts, 1939 Reg. Sess., Ch. 132.

WV Legislature

§11-8-19a.

Repealed.

Acts, 1939 Reg. Sess., Ch. 132.

WV Legislature

§11-8-20. Levy apportioned to taxing district for current expense but not needed may be used for its debt purposes or passed on to lesser taxing district for debt purposes.

When the levies apportioned to, or in any way becoming available to any tax levying body for debt purposes alone, shall be insufficient to meet the requirements for such indebtedness, then if there remain any part of the amount authorized to be levied and apportioned to such taxing body for current expense purposes and not required for such current expense purposes, such remaining part shall be laid by such fiscal body in addition to its laying of the levies hereby expressly apportioned to it for said debt purposes and applied to the payment of its said contractual indebtedness existing at the time of the adoption of the "Tax Limitation Amendment." When any of the levies apportioned for current expenses to any larger taxing district are not all required by such taxing district for current expense and are not required for indebtedness of such taxing district, then, with the consent and approval in writing, of the Tax Commissioner, as provided in the next preceding section, such lesser taxing district may likewise utilize, for debt purposes only, the unused portion thereof.

WV Legislature

§11-8-21. Amount of levy, with consent of Tax Commissioner, when fiscal body required by law to levy for indebtedness, property within municipality not being subject to levy.

In any case in which the county court, the board of Education, or other fiscal body is required by law to lay the levies for the payment of any indebtedness of any taxing district, for which indebtedness the property situated within any incorporated municipality is not subject to such levy, such county court, Board of Education, or other fiscal body may lay a levy of twelve and one-half cents on Class I property and 25¢ on Class II property for such indebtedness purposes only: Provided, That the consent and approval in writing of the Tax Commissioner be had. The estimates and levies under this section shall be made at the same time, and in the same manner as other levies in this article provided for are required to be made, and copies of such estimates and proposed levies shall be forwarded to the Tax Commissioner at the same time and in the same manner as other estimates and levies.

WV Legislature

§11-8-22. Supersedeas to levy order; rescission or reversal; return of money collected; recovery by action.

Within forty days after an order for a levy the circuit court of the county, or the judge in vacation, may allow a writ of supersedeas on the petition of at least twenty-four persons interested in reversing the order. The levying body, without awaiting the final decision, may rescind the order, and impose a new levy. If the court, on the hearing, finds that the order is contrary to law and reverses the order, the levying body shall impose a levy according to law. If money is collected under any order which is afterward rescinded or reversed, the collecting officer shall, upon demand, refund any 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 in the circuit court.

WV Legislature

§11-8-23. Statement of fiscal body when levies not sufficient to meet requirements of existing contractual indebtedness.

When the entire apportionment of levies for the payment of such contractual indebtedness existing at the time of the adoption of the "Tax Limitation Amendment," together with the application to such indebtedness of such part, if any, of the levies allocated for current expenses and not required therefor and applied to such indebtedness as hereinabove provided, are not sufficient to meet the current requirements of principal and/or interest upon legally existing contractual indebtedness, existing at the time of the adoption of the "Tax Limitation Amendment" and remaining unpaid, then the levying body shall prepare a statement showing in detail:

(1) The items of expenditure upon which the estimate of current expense is based;

(2) A detailed itemized statement of:

(a) The bonded indebtedness, if any there be, existing prior to the adoption of the "Tax Limitation Amendment," in whole or in part, not provided for by the levies hereinbefore authorized;

(b) Other contractual indebtedness, not bonded, if any there be, legally incurred prior to the adoption of the "Tax Limitation Amendment," in whole or in part, not provided for by the levies hereinbefore authorized;

(3) The requirements of such bonded indebtedness not provided for by the levies hereinbefore authorized;

(a) The requirements of such other contractual indebtedness, not bonded, not provided for by the levies hereinbefore authorized;

(4) The separate and aggregate amounts of the real, personal, and public utility properties in each class subject to taxation within the taxing district;

(5) The rates of levy in cents on each one hundred dollars' assessed valuation of each class of property necessary to produce the amount required (a) for such bonded indebtedness, and (b) for such other contractual indebtedness not bonded, and not provided for by the levies hereinbefore authorized, and which rates of levies shall be in the proportion of 1¢ on Class I property, 2¢ on Class II property, and 4¢ on Classes III and/or IV property.

The recording officer of the fiscal body shall forthwith forward a certified copy of this statement to the State Tax Commissioner in the same manner and at the same time as required in sections eleven, thirteen and fifteen of this article for the regular levies imposed by the levying body, and notice of this proposed levy shall be published at the same time and in the same manner as required for other levies proposed by the fiscal body. The Tax Commissioner upon receipt of such estimate shall proceed to carefully examine and analyze the estimate for current expense and determine what items, if any, may be reduced or

WV Legislature

eliminated therefrom. If the Tax Commissioner find that any of such items, in whole or in part, may be eliminated or reduced without impairing the governmental functions of such fiscal body, he shall require such fiscal body to so eliminate or reduce such estimate until such estimate shall constitute only so much as may in the opinion of the Tax Commissioner be indispensable to the orderly discharge of the governmental functions of such fiscal body; and such proportion of the levies for current expense as are represented by such reductions may be applied by said fiscal body to the increase of the levies of such fiscal body for contractual indebtedness. The Tax Commissioner shall also carefully examine the itemized list of contractual obligations for the payment of which the levy under this section is proposed to be made, and shall ascertain whether such obligations are in fact contractual; whether the same were created prior to the adoption of the "Tax Limitation Amendment," and whether or not, except for the levy proposed under this section, the obligation thereof will be impaired. The Tax Commissioner shall make a statement of his findings in writing, and if such findings of the Tax Commissioner show that the levies for current expense of such fiscal body are no more than are indispensable to the orderly discharge of the governmental functions of such fiscal body, and that except for the levies proposed to be laid under this section, the obligation of valid contracts incurred prior to the adoption of the "Tax Limitation Amendment" will be impaired, the fiscal body may then with the approval of the Tax Commissioner lay such a levy on the several classes of property in proportion to 1¢ on Class I property, 2¢ on Class II property, and 4¢ on Classes III and/or IV properties, which, together with the other levies provided for in this article, shall not exceed any Constitutional limitations applicable thereto in effect immediately prior to the time of the adoption of the "Tax Limitation Amendment," at the same time and in the same manner as other levies in this article provided for, and the proceeds thereof when collected, together with the other levies for such contractual indebtedness herein provided for, shall be held and kept separate and apart from all other funds of said fiscal body and shall be used solely for the purpose of paying such indebtedness.

WV Legislature

§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 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

§11-8-25. Funds expended only for purposes for which raised.

Except as otherwise provided in this article, boards or officers expending funds derived from the levying of taxes shall expend the funds only for the purposes for which they were raised.

WV Legislature

§11-8-25a. Right of county court to expend surplus funds for equalization and revaluation.

In order to permit county courts to participate more fully in an equalization and revaluation program, which equalization and revaluation would result in increased local support for the public schools, any county court having funds in excess of the amount needed for the purpose for which such funds were raised, may expend such funds for any equalization and revaluation program upon the written approval of the State Tax Commissioner, provided that under no circumstances shall a county court expend money or incur obligations in excess of the funds available for current expenses.

WV Legislature

§11-8-26. Unlawful expenditures by local fiscal body.

(a) Except as provided in sections fourteen-b, twenty-five-a and twenty-six-a of this article, a local fiscal body shall not expend money or incur obligations:

(1) In an unauthorized manner;

(2) For an unauthorized purpose;

(3) In excess of the amount allocated to the fund in the levy order; or

(4) In excess of the funds available for current expenses.

(b) Notwithstanding the foregoing and any other provision of law to the contrary, a local fiscal body or its duly authorized officials may not be penalized for a casual deficit which does not exceed its approved levy estimate by more than three percent: Provided, That such casual deficit is satisfied in the levy estimate for the succeeding fiscal year: Provided, however, That in calculating a deficit for purposes of this section, account shall not be taken of any amount for which the local fiscal body may be liable for the unfunded actuarial accrued liability of the West Virginia Retiree Health Benefit Trust Fund or any amount allocated to the local fiscal body as an employer annual required contribution that exceeds the minimum annual employer payment component of the contribution, all as provided under article sixteen-d, chapter five of this code.

WV Legislature

§11-8-26a. Revision of levy estimate.

The Tax Commissioner shall, by uniform regulations, provide for the revision of the levy estimate of a county court or municipality to permit expenditures for purposes for which no appropriation or an insufficient appropriation was made in the annual levy estimate as approved by the Tax Commissioner. The revision shall be made only with the prior written approval of the Tax Commissioner.

WV Legislature

§11-8-27. When indebtedness, contracts or drafts are void.

Any indebtedness created, contract made, or order or draft issued in violation of sections twenty-five and/or twenty-six of this article shall be void.

WV Legislature

§11-8-28. Suit to recover unlawful expenditure or to cancel obligation.

Whenever a fiscal body expends money or incurs obligations in violation of sections twenty-five and/or twenty-six of this article, suit shall be instituted by the prosecuting attorney of the county or the Attorney General of the state, in a court of competent jurisdiction to recover the money expended or to cancel the obligation, or both.

WV Legislature

§11-8-29. Personal liability of official participating in unlawful expenditure.

A person who in his official capacity negligently participates in the violation of either section twenty-five or section twenty-six of this article shall be personally liable, jointly and severally, for the amount illegally expended.

WV Legislature

§11-8-30. Recovery of unlawful expenditure from participating official by action; costs.

A person who in his official capacity negligently participates in an illegal expenditure may be proceeded against for the recovery of the amount illegally expended. The political subdivision concerned, a taxpayer of the subdivision, the State Tax Commissioner or a person prejudiced may bring the proceeding.

All moneys recovered in these proceedings shall be paid into the treasury of the proper fiscal body and credited to the proper fund. Recovery in these proceedings shall, in all cases, include the principal and interest on the principal at a reasonable rate of interest as set by the court in the judgment order and may include, in the discretion of the court, a penalty of not more than twenty-five percent of the aggregate amount of the judgment and interest.

If the plaintiff prevail, he shall recover against the defendant, the costs of the proceedings, including a reasonable attorney's fee to be fixed by the trial court and included in the taxation of costs.

WV Legislature

§11-8-31. Criminal liability of official violating provisions of article; proceeding for removal.

A person who in his official capacity willfully violates the provisions of this article shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than $500, or confined in jail not more than one year, or both. Upon conviction he shall also forfeit his office: Provided, That no liability shall arise under the provisions of this section so far as obligations may have been incurred or may be incurred prior to the time tax levies may be made under the provisions of this article by fiscal bodies having for their purpose the maintenance and operation of free schools or other governmental functions for the fiscal year one thousand nine hundred thirty-three--one thousand nine hundred thirty-four.

Proceedings for the removal of a member of a local fiscal body who has willfully or with gross negligence violated any of the provisions of this article shall be brought and maintained in accordance with and shall be subject to the provisions of section seven, article six, chapter six of this code.

An attested copy of the petition and the charges contained therein shall be served upon the defendants at least twenty days prior to the date of hearing. No other pleading or notice of the proceedings shall be necessary.

If any person in his or her official capacity participates in an illegal expenditure and in so doing acts in accordance with and upon the advice of his or her statutory attorney or duly appointed attorney, which advice was asked for, received and given in good faith, such person so acting shall not be deemed guilty of gross negligence or of willfully violating any of the provisions of this article but may be found to have so acted in a negligent manner and may be proceeded against for the recovery of the amount illegally or improperly expended, both personally or upon his or her official bond.

WV Legislature

§11-8-31a. Recovery of attorneys' fees authorized.

The governing body of the governmental entity of which a person is an official is hereby authorized to reimburse such person for the reasonable amount of such person's attorney fees in any case:

(a) Wherein such person has successfully defended against an action seeking his or her removal from office, or

(b) Wherein such person has successfully defended against an action seeking the recovery of moneys alleged to have been wrongfully expended.

In either case such governing body shall have authority to determine if such reimbursement is warranted and the reasonableness of the amount sought to be recovered.

WV Legislature

§11-8-32. Publication.

The requirement of publication under this article shall be met by publication as a Class II-O legal advertisement in compliance with the provisions of article three, chapter fifty- nine of this code, and the publication area for such publication shall be the taxing unit.

WV Legislature

§11-8-33. Exceptions as to fiscal year beginning July 1, 1961, and as to city of Huntington.

Notwithstanding the provisions of sections eight, nine, ten, ten-a, twelve, twelve-a, fourteen and fourteen-a of this article, the provisions of this article as of January 1, 1961, shall govern levies for the fiscal year beginning July 1, 1961; nor shall the powers heretofore given the board of park commissioners of the city of Huntington, by chapter twenty-six, acts of the Legislature, 1925 and subsequent amendments thereto be in any manner impaired by the provisions of this article, and further that levies to be laid by said board of park commissioners of the city of Huntington be laid at the same time and in the manner herein provided.

WV Legislature