ENROLLED BILL
(SECOND EXTRAORDINARY SESSION, 1933)

House Bill No. 2

(By Mr. Righter)

Passed December 21, 1933

In Effect from Passage
AN ACT to amend and reenact section one, article seven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the collection of capitation taxes.

Be it enacted by the Legislature of West Virginia:

That section one, article seven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, be amended and reenacted so as to read as follows:

Section 1. While making the assessment required in article two three of this chapter, it shall be the duty of the assessor and deputies to see every person in his county who is liable to taxation therein upon property or capitation, and obtain from him a sworn statement in writing of his personal property, but it shall likewise be the duty of every person liable to taxation to make a report in writing of his property to the assessor, whether called
8 upon to do so or not; he shall at the same time collect from every
9 male person, over the age of twenty-one years, liable therefor, a
10 capitation tax of one dollar for the support of free schools; and
11 the assessor shall also collect the state road capitation tax of one
12 dollar from all persons liable therefor, as required by section
13 twenty-three, article ten, chapter forty, acts of the Legislature,
14 first extraordinary session, one thousand nine hundred thirty-
15 three as amended, and deliver to such person a receipt therefor;
16 and the assessor shall also collect any municipal capitation taxes
17 levied for any purposes whatsoever, from all persons liable there-
18 for, and deliver to such person a receipt therefor; in case any
18-a person liable therefor shall fail or refuse to pay such capitation,
18-b the assessor shall levy upon and take into his possession prop-
18-c erty or effects of the delinquent sufficient to pay such capi-
19 tation taxes and the cost of levy and sale; the assessor shall
20 have, as to such capitation taxes, the same powers of levy and
21 sale of collection as is vested in the sheriff for the collection of
22 taxes and he shall be entitled to the same fees; the assessor
23 shall, not later than the fifteenth day of each month, turn over
24 to the auditor the full amount of all capitations for both state
25 school purposes and for the state road fund collected by him during the previous month and not paid over, and the auditor shall, within ten days after the receipt of said capitations, pay to the assessor ten per cent of all such capitations so collected and remitted for compensation to the assessor for his services in making collection and remittance aforesaid; the assessor shall, not later than the fifteenth day of each month, turn over to the treasurer or other proper official of each and every municipality within the county the full amount of all municipal capitations collected by him during the previous month and not paid over, and the said treasurer or other proper official shall, within ten days after the receipt of said capitations pay to the assessor five percent of all such capitations so collected and remitted for compensation to the assessor for his services in making collections and remittance aforesaid: Provided, however, That the assessor shall not be entitled to receive any commission on collections if he shall fail to account for and turn over, within the time herein fixed, any money collected by him under the provisions of this section: Provided further, That all soldiers and sailors who are residents of West Virginia, and who served in either the union or the confederate army during the civil war, shall
be exempt from paying capitation taxes of any kind in this
state. At the levy term of the county court the assessor shall
make report to such court of all capitations collected for state
school purposes and all capitations collected for state road
purposes and at the levy term of the municipal governing body
of each and every municipality within the county, the assessor
shall make report to such body of all capitations collected for
municipal purposes; and such report to the county court and
to each municipal governing body shall include the names of
those from whom collected, the names of all delinquents, and the
cause of delinquency in each case. Such reports shall be veri-
fied by the affidavit of the assessor. Such assessor shall not
thereafter for the year have authority to collect capitations, but
a copy of such reports shall be by the county court and each mu-
icipal governing body within the county, turned over to the
sheriff, who shall forthwith proceed to collect all capitation, both
for state school purposes and for the state road fund and for
municipal purposes remaining unpaid whether or not they ap-
pear upon such report; the assessor shall be charged by the
county court and by each municipal governing body within the
county with all delinquencies appearing in such reports and like-
67 wise with all delinquencies not reported by him but afterwards
68 ascertained or reported by the sheriff, or ascertained in any
69 other way, and credited with all collections on that account made
70 and paid over to the sheriff; he shall also be credited with such
71 delinquencies as the county court and each municipal governing
72 body within the county shall be satisfied could not have been
73 collected either by the assessor or sheriff, by the exercise of due
74 diligence, and, in case the sheriff shall fail to use due diligence in
75 the ascertainment and collection of such delinquencies, he and
76 his sureties, on his official bond, shall be liable to the assessor
77 for all damages sustained by him, on that account; the assessor
78 shall, in addition to other bonds required of him, give bond in
79 a penalty to be fixed by the county court, of not less than four
80 thousand nor more than twenty thousand dollars, and to the
81 municipal governing body of each municipality within the
82 county, the assessor shall, in addition to other bonds required of
83 him, give bond in a penalty to be fixed by such municipal gov-
84 erning body of not less than five hundred dollars nor more than
85 twenty thousand dollars, and such bonds shall be conditioned for
86 the faithful performance of his duties under this chapter.
87 It shall be the duty of the tax commissioner to prepare and
88 furnish to the assessors all tickets, blanks and forms necessary
89 for the purpose of this section: Provided, however, That each
90 municipality shall furnish to the assessor of the county all tickets,
91 blanks, and forms necessary for municipal purposes under this
92 section; the tickets so furnished shall be numbered consecutively,
93 and the assessor shall account for each ticket furnished him, as
94 well as for the taxes collected.
95 Any assessor, assessors or deputy assessors failing to account
96 for and turn over, within the time herein fixed, any money or
97 moneys collected by them under the provisions of this section,
98 shall be guilty of embezzlement.
99 All acts or parts of acts inconsistent with the provisions of this
100 act, are hereby repealed.
Enrolled H. B. No. 2] 7

R. M. S. E.
Speaker of the House of Delegates.

John S. Hall
Clerk of the House of Delegates.

W. H. Martin
President of the Senate.

The within is.............................................

day of................................................., 1933.

Governor.

Filed in the office of the Secretary of State of West Virginia DEC. 3D. 1933
Wm. S. O'Brien,
Secretary of State