

Rec, Mar. 11, 1933

554

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 554

(By Mr. Hines, Mr. Speaker)

Passed March 11, 1933

In Effect from Passage

Originated in the..... Takes effect..... Passage

W. C. Suttace
Clerk

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Clerk

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W. C. Suttace
Clerk of the House of Delegates

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James L. Smith
Chairman House Committee

Anna D. Hays
Chairman Senate Committee

ENROLLED BILL

(H. B. No. 554)

[Passed March 11, 1933; in effect from passage.]

AN ACT to amend and reenact section two, article one; sections twenty-four, twenty-five and twenty-seven, article three; and to add section twenty-four-(a) to article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, relating to the review of assessments.

Be it enacted by the Legislature of West Virginia:

That section two, article one; sections twenty-four, twenty-five and twenty-seven, article three, are hereby amended, and section twenty-four-(a), article three, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, is added, to read as follows:

ARTICLE I

Section 2. It shall be the duty of the tax commissioner to see that the laws concerning the assessment and collection of

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3 all taxes and levies, whether of the state or of any county, dis-
4 trict or municipal corporation thereof, are faithfully enforced.
5 He shall prepare all proper forms and books for the use and
6 guidance of assessors, and shall perform all such other duties
7 as may be required by law. He shall from time to time visit the
8 several counties and municipal corporations of the state; shall
9 inspect the work of the several assessors, county courts, justices,
10 prosecuting attorneys, clerks of the courts, sheriffs, constables
11 and collecting officers, among whom are included commissioners
12 of school lands, and shall confer with them respecting such
13 work for the future. In such conference, or by writing or
14 otherwise, he may inquire into the proceedings of any such offi-
15 cer, make to him such suggestions respecting the discharge of
16 his duty as may seem proper, and give such information and
17 require such action as will tend to produce full and just assess-
18 ments throughout the state, and the diligent collection of all
19 taxes and levies, including licenses and inheritance taxes, and
20 of fines.
21 The tax commissioner may, with the approval of the board
22 of public works, appoint competent persons to appraise prop-
23 erty values, and may employ experts to examine and report

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24 upon the different kinds and classes of property in the state,
25 with a view to ascertaining the true and actual value thereof
26 for assessment purposes, to the end that he may furnish to
27 county assessors, county courts and the state board of public
28 works more accurate information, and more effectively aid and
29 supervise the assessors and the county courts in their work of
30 assessment and valuation of property for purposes of taxation.
31 Any such appraiser, or expert person, so appointed by the tax
32 commissioner for the purpose of ascertaining property values,
33 as aforesaid, shall have authority to examine, under oath, the
34 owner or owners, of any property subject to taxation in this
35 state as to any matters touching the value thereof; and he may
36 examine, under oath, any other person as to any pertinent facts
37 or matters within his knowledge, relative to the character and
38 value of any such property. And, for the purposes of this
39 provision, such appraisers and expert examiners shall have au-
40 thority to administer oaths and to subpoena witnesses. If any
41 person refuse to appear and to testify in response to any sub-
42 poena issued by such appraiser or expert examiner, he may
43 apply to any judge of any criminal, intermediate, common
44 pleas or circuit court, or the clerk thereof, either in term time

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45 or in vacation, for subpoena, or other proper process, for any
46 such witness; and the judge of the court, or such clerk shall
47 thereupon issue a subpoena, or other proper process, requiring
48 the attendance and testimony of any such person before such
49 appraiser, or examiner, and if such person refuse to obey any
50 such order, he shall be guilty of contempt and punished accord-
51 ingly.

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52 Upon the application of any officer concerned with the assess-
53 ment or collection of taxes, he shall as to any matter specified
54 by such officer, make like suggestions and give like information.
55 In case of the failure of any assessing or collecting officer in
56 the discharge of any duty, imposed upon him by law. the said
57 tax commissioner shall, after due notice to any such assessor
58 or collecting officer, proceed to enforce such penalty as may
59 be provided by law, including, in any proper case, the removal
60 of such officer, and to that end he is authorized to appear before
61 any court or tribunal having jurisdiction. He may cause the
62 violation of any law respecting the assessment or collection of
63 taxes to be prosecuted. He may also be heard before any court,
64 council or tribunal, in any proceeding in which an abatement
65 of taxes is sought.

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ARTICLE III

Section 24. The county court shall annually, not later than
2 the fifth day of July, meet for the purpose of reviewing and
3 equalizing the assessment made by the assessor. It shall not ad-
4 journ for longer than three days at a time until this work is
5 completed, and shall not remain in session for a longer period
6 than twenty-five days. At the first meeting, the assessor shall
7 submit the property books for the current year, which shall
8 be complete in every particular, except that the levies shall not
9 be extended. The assessor and his assistants shall attend and
10 render every assistance possible in connection with the value
11 of property assessed by them. The court shall proceed to ex-
12 amine and review the property books, and shall add on the books
13 the names of persons, the value of personal property and the
14 description and value of real estate liable to assessment which
15 was omitted by the assessor. They shall correct all errors in the
16 names of persons, in the description and valuation of property,
17 and they shall cause to be done whatever else may be necessary
18 to make the valuation comply with the provisions of this chap-
19 ter. But in no case shall any question of classification or tax-
20 ability be considered or reviewed. If the court determine that

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21 any property or interest is assessed at more or less than its true
22 and actual value, it shall fix it at the true and actual value. But
23 no assessment shall be increased without giving the property
24 owner at least five days' notice, in writing, and signed by the
25 president of the court, of the intention to make the increase.

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26 Service upon the property owner shall be sufficient, or upon his
27 agent or attorney in person, or if sent by registered mail to
28 such property owner, his agent, or attorney, at the last known
29 place of abode. If he be not found and have no known place of
30 abode, then notice shall be given by publication once in some
31 newspaper published in the county, at least five days prior to
32 the increase. When it is desired to increase the entire valuation
33 in any one district by a general increase, notice shall be given
34 by publication in two newspapers published in the county, once
35 each week for two consecutive weeks, and completed at least five
36 days prior to the increase in valuation. When an increase is
37 made the same valuation shall not again be changed, unless
38 notice is again given as heretofore provided.

39 The clerk of the county court shall publish notice once each
40 week for three successive weeks before the meeting of the county
41 court in two newspapers of general circulation published in

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42 the county, of opposite politics, if there be any; if there be no
43 newspaper published in the county, notice shall be published
44 in some newspaper of general circulation. The notice shall state
45 briefly the time, place and general purpose of the meeting. The
46 expense of publication shall be paid out of the county treas-
47 ury.

48 If any person fails to apply for relief at this meeting he
49 shall have waived his right to ask for correction in his assess-
50 ment list for the current year, and shall not thereafter be per-
51 mitted to question the correctness of his list as finally fixed by
52 the county court, except on appeal to the circuit court. After
53 the county court completes the review and equalization of the
54 property books, a majority of the court shall sign a statement
55 that it is the completed assessment of the county for the year;
56 then the property books shall be delivered to the assessor and the
57 levies extended as provided by law.

Sec. 24-(a). At any time after property is returned for tax-
2 ation and up to and including the time the property books are
3 before the county court for equalization and review, any tax-
4 payer may apply to the assessor for information regarding the
5 classification and taxability of his property. In case the tax-

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6 payer is dissatisfied with the classification of property assessed
7 to him or believes that such property is exempt or otherwise not
8 subject to taxation, he shall file his objections in writing with
9 the assessor. The assessor shall decide the question by either
10 sustaining the protest and making proper corrections, or by
11 stating, in writing if requested, the reasons for his refusal. The
12 assessor may, and if the taxpayer requests, the assessor shall,
13 certify the question to the state tax commissioner in a state-
14 ment sworn to by both parties, or if the parties are unable to
15 agree, in separate sworn statements, giving a full description
16 of the property and any other information which the tax com-
17 missioner may require.

18 The tax commissioner shall, as soon as possible on receipt of
19 the question, but in no case later than August first of the assess-
20 ment year, instruct the assessor as to how the property shall be
21 treated. The instructions issued and forwarded by mail to the
22 assessor shall be binding upon him, but either the assessor or the
23 taxpayer may apply to the circuit court of the county for the
24 review of the question of classification and taxability in the
25 same fashion as is provided for appeals from county court in
26 section twenty-five of this article. The tax commissioner shall

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27 prescribe forms on which the aforesaid questions shall be cer-
28 tified and he shall have the authority to pursue any inquiry and
29 procure any information which may be necessary for the dis-
30 position of the issue.

Sec. 25. Any person claiming to be aggrieved by any assess-
2 ment in any land or personal property book of any county who
3 shall have appeared and contested the valuation or whose assess-
4 ment has been raised by the county court above the assessment
5 fixed by the assessor, or who contested the classification or
6 taxability of his property may, at any time up to thirty days
7 after the adjournment of the county court, apply for relief to
8 the circuit court of the county in which such books are made
9 out; but he shall, before any such application is heard, give
10 ten days' notice to the prosecuting attorney of the county,
11 whose duty it shall be to attend to the interests of the state,
12 county and district in the matter, and the prosecuting attorney
13 shall give at least five days' notice of such hearing to the tax
14 commissioner. The right of appeal from any assessment by
15 the county court, as hereinbefore provided, may be taken either
16 by the applicant or by the state, and in case the applicant, by
17 his agent or attorney, or the state, by its prosecuting attorney

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18 or tax commissioner, desires to take an appeal from the decision
19 of the county court, the party desiring to take such an appeal
20 shall have the evidence taken at the hearing of the application
21 before the county court. If there was an appearance by or on
22 behalf of the owner before the county court, or if actual notice,
23 certified by such court, was given to the owner, the appeal,
24 when allowed by the court or judge, in vacation, shall be de-
25 termined from the evidence so certified. If, however, there was
26 no actual notice to such owner, and no appearance by or on
27 behalf of the owner before the county court, or if a question
28 of classification or taxability is presented, the matter shall be
29 heard de novo by the circuit court. If, upon the hearing of
30 such appeal, it is determined that any property has been valued
31 at more than its true and actual value, or illegally classified or
32 assessed, the circuit court shall, by an order entered of record,
33 correct the assessment, and fix the property at its true and
34 actual value. A copy of such order or orders entered by the
35 circuit court reducing the valuation shall be certified to the
36 auditor by the clerk within twenty days after the entering of
37 the same, and every order or judgment shall show that the
38 prosecuting attorney or tax commissioner was present and de-

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39 fended the interest of the state, county and district. If it be
40 ascertained that any property has been valued too high, and that
41 the owner has paid the excess tax, it shall be refunded to him,
42 and if not paid he shall be relieved from the payment thereof.
43 If it is ascertained that any property is valued too low the cir-
44 cuit court shall, by an order entered of record, correct the valu-
45 ation and fix it at its true and actual value. A copy of any
46 order entered by any circuit court increasing the valuation of
47 property shall be certified within twenty days to the auditor
48 the county clerk and the sheriff, and it shall be the duty of the
49 auditor, the county clerk and the sheriff to charge the taxpayer
50 affected with the increase of taxes occasioned by the increase of
51 valuation by applying the rate of levies for every purpose in
52 the district where such property is situated for the current year.
53 The order shall also be filed in the office of the auditor and clerk
54 of the county court. Any order disposing of a question of
55 classification or taxability shall be similarly prepared, certi-
56 fied and filed, and the increase or decrease of taxes resulting
57 shall be treated as provided above for changes in valuation.
58 The state or the aggrieved taxpayer may appeal a question of
59 valuation to the supreme court of appeals, if the assessed

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60 value of the property is fifty thousand dollars or more, and
61 either party may appeal a question of classification or tax-
62 ability.

Sec. 27. Any taxpayer, or the prosecuting attorney or tax
2 commissioner on behalf of the state, county and districts, claim-
3 ing to be aggrieved by any entry in the property books of the
4 county, resulting from a mistake or clerical error may, within
5 one year from the time the property books are delivered to the
6 sheriff, apply for relief to the county court of the county in
7 which such books are made out. Before the application is
8 heard, the taxpayer shall give notice to the prosecuting attorney
9 of the county or the state shall give notice to the taxpayer, as
10 the case may be. The application, whether by the taxpayer or
11 the state, shall have precedence over all other business before
12 the court; but any order or judgment shall show that either
13 the prosecuting attorney or the tax commissioner was present
14 defending the interests of the state, county and district.

15 In the event it is ascertained that the applicant is entitled
16 to relief, taxes already paid shall be refunded and if charged,
17 but not paid, the applicant shall be released from payment.
18 Whenever any correction is made by the county court, the clerk

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[Signature]

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19 shall certify copies of the order to the auditor, to the sheriff
20 and to the assessor, and in the case of real estate, the assessor
21 shall thereupon make a correction in accordance with the order
22 in his land book for the next year. Any such order delivered to
23 the sheriff or other collecting officer shall restrain him from
24 collecting so much as is erroneously charged against the tax-
25 payer, and, if already collected, shall compel him to refund the
26 money if such officer has not already paid it into the treasury.
27 In either case, when indorsed by the person exonerated, it shall
28 be sufficient voucher to entitle the officer to a credit for so
29 much in his settlement which he is required to make. If the
30 applicant be the state, the order certified to the sheriff shall
31 show the correct amount of taxes due the state, county and dis-
32 tricts and shall be sufficient to authorize collection in the same
33 manner as for other state, county and district taxes.

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Anna D. St. John
Chairman Senate Committee

R. M. Hiner
Speaker of the House of Delegates.

Geo. Stacey
Clerk of the House of Delegates.

A. B. Mainwaring
President of the Senate.

Abner D. Smith
Clerk of the Senate.

James L. Smith
Chairman House Committee

The within is... *approved*

this... *16th* ... day of... *March*, 1933.

H. B. Kemp
Governor.

Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1933**
Wm. S. O'BRIEN,
Secretary of State