WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED

SENATE BILL No. 2

(By Mr. LaFon)

PASSED Sept. 15th, 1939

In Effect _______ Days after Passage
ENROLLED

Senate Bill No. 2

(By Mr. LaFon, Mr. President)

[Passed February 15, 1939; in effect ninety days from passage.]

AN ACT to amend article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter sixty-seven, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, by repealing section nineteen, by amending sections two, five to ten-a, inclusive, twelve, fourteen, seventeen, thirty-two and thirty-three and adding sections six-a to six-d, inclusive, twelve-a and fourteen-a, and to repeal chapters fifty-one, sixty-five and sixty-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three;
chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six; and chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, all relating to tax levies under the tax limitation amendment.

*Be it enacted by the Legislature of West Virginia:*

That chapters fifty-one, sixty-five, and sixty-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter twelve, acts of the Legislature, first extraordinary session, one thousand nine hundred thirty-six and chapter twenty-six, acts of the Legislature, regular session, one thousand nine hundred thirty-seven, be repealed; and that article eight, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter sixty-seven, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended by repealing section nineteen, amending sections two, five to ten-a, inclusive, twelve, fourteen, seventeen, thirty-two and thirty-three, and adding sections six-a to six-d, inclusive, twelve-a and fourteen-a so as to read as follows:
Article 8. Levies.

Section 2. Legislative Findings. The Legislature, through its Interim Legislative Committee, having carefully analyzed the fiscal affairs of the state and its political subdivisions with particular reference to the liquidation of the legal contractual indebtedness, not bonded, of such subdivisions incurred prior to the adoption of the "Tax Limitation Amendment," the liquidation of Virginia debt bonds, and the reduction of the outstanding bonded debt of political subdivisions incurred prior to the adoption of the "Tax Limitation Amendment" finds that:

(1) With the levy for the year one thousand nine hundred thirty-eight-one thousand nine hundred thirty-nine, the Virginia debt bonds will be entirely liquidated and that no further state debt levy upon real and personal property will be required.

(2) Since the year one thousand nine hundred thirty-two-one thousand nine hundred thirty-three nearly six and one-half million dollars has been levied and applied to the payment of legal contractual indebtedness, not bonded, of political subdivisions incurred prior to the adoption of the "Tax
Limitation Amendment” and that only some four hundred and fifty thousand dollars of such debt remains outstanding after the year one thousand nine hundred thirty-eight-one thousand nine hundred thirty-nine.

(3) 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 one thousand nine hundred thirty-two-one thousand nine hundred thirty-three by approximately one-third and the annual requirements of service upon bonded debt has been reduced by completed amortizations from approximately eight million dollars to less than six million five hundred thousand dollars.

(4) With the exception of a few counties of small valuations the present allocation of levies to county courts for current general expense is adequate to maintain orderly county governments.

(5) Because of the increase of school enrollment, inadequate building facilities and worn out equipment, county boards of education need increased levying power to maintain adequate schools for a reasonable school term.

(6) While provision can be made for the use of the
maximum amount of levies for municipal current expense measured by the difference in total maximum rates allowed by the Constitution for Class III and Class IV property, further levying power cannot be given to municipalities without serious loss of potential revenue through the freezing of levies outside of municipalities.

(7) It is 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 boards of education, and that such adjustment is in keeping with sound finance, a normal development of our free schools, the preservation of local fiscal responsibility for local services, and the intention of the "Tax Limitation Amendment."

Sec. 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 moneys and 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.

Sec. 6. Aggregate of Taxes on the Different Classifications;

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 fifty cents on each one hundred dollars' assessed valuation on class I property; one dollar on class II property; one dollar fifty cents on class III property; and two dollars 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.

Sec. 6-a. **Maximum Levies on Each Classification by the Board of Public Works.** The state board of public works shall levy for general expense purposes, including the payment of the state debt, for the state fund general revenue, as provided by section eight, as follows:

On class I property, twenty-five hundredths of one cent; on class II property, five-tenths of one cent; and on classes III and IV property, one cent.

Sec. 6-b. **Maximum Levies on Each Classification by the County Court; 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 (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, seventy-five one-hundredths of one cent; on class
II property, one and one-half cents; and on classes III and
IV property, three cents.

(2) With respect to a magisterial or special taxing dis-

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tric 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 re-
quired), (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, four
and fifteen hundredths cents; on class II property, eight and
three-tenths cents; and on classes III and IV property, sixteen
and six-tenths cents.

(3) For general county current expense as follows: on
class I property, nine and four-tenths cents; on class II prop-
erty, eighteen and eight-tenths cents; and on classes III and
IV property thirty-seven and six-tenths cents. But in a
county where the total assessed valuation of all classes of
property is less than six million dollars, the county court may,
with the prior written approval of the tax commissioner,
ceed the rates of levy for general county current expense by
not more than twenty-five per cent of the rates specified.

Sec. 6-c. Maximum Levies on Each Classification by County

Boards of Education; Order of Levy. County boards of edu-
cation are hereby authorized to lay not in excess of the fol-
lowing 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 twenty-second,
one thousand nine hundred thirty-three, or any special tax-
ing 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 ex-
tent not so required), (b) other legally incurred contractual
indebtedness not bonded, if any, incurred prior to the adop-
tion of the tax limitation amendment as follows: on class I
property, one and eighty-five one hundredths cents; on class
II property, three and seven-tenths cents; and on classes III
and IV property, seven and four-tenths cents.

(2) For either or both of (a) the permanent improve-
ment 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, three cents; and on classes III and IV property, six cents.

(3) For the general current expenses of schools as follows: on class I property, nineteen and six-tenths cents; on class II property, thirty-nine and two-tenths cents; and on classes III and IV property, seventy-eight 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 (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.

Sec. 6-d. 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 re-
quired), (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, three
cents; on class II property, six cents; and on class IV prop-
erty, twelve cents.

(2) For general current expense purposes, as follows:
on class I property, nine and five-tenths cents; on class II
property, nineteen cents; and on class IV property thirty-
eight cents.
Sec. 7. Debt Levies Used For Current Expenses. 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. But, in no county, shall the total of the rates levied for non-municipal current expenses exceed, by more than eight per centum, the maximums allocated for such purposes; nor shall the total of the rates levied for municipal current expenses exceed, by more than fourteen per centum, the maximums allocated for such purposes, except that as to counties or municipalities which at the date of the passage of this act have under contract or construction any project or projects with respect to which the Federal Government has contributed or advanced, or is to contribute or advance funds or materials in aid thereof, the above limitations as to total rates of levy shall not apply during the fiscal years beginning July one, one thousand nine hundred thirty-nine,
Sec. 8. When Board of Public Works to Lay Levies and
Certify Action to Tax Commissioner and County Assessors.
The state board of public works shall, on or before July
fifteenth of each year, levy on the one hundred dollars' valu-
ation 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 com-
misssioner and to the assessor of each county.

Sec. 9. Meetings of Local Levying Bodies. Each local
levying body shall hold a session on the first Tuesday in
August for the transaction of business generally and par-
ticularly for the business herein required.

Sec. 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 require-
ments for the current fiscal year of bonded indebted-
ness legally incurred upon a vote of the people, as pro-
vided by law, prior to the adoption of the tax limitation
amendment, owing by the county as a whole and by any dis-
trict;
(3) Other contractual indebtedness not bonded, legally
incurred prior to the adoption of the tax limitation amend-
ment, 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 de-
linquent 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 hun-
dred 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 August, at which time it shall reconvene.

Sec. 10-a. 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 August, 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 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 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 county incurred prior to the ad-
option 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 maximums authorized.

Sec. 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 twenty-second, one thousand nine hundred thirty-three, prior to the adoption of the tax limitation amendment;

(3) Other contractual indebtedness not bonded, legally incurred by any such school district existing prior to May twenty-second, one thousand nine hundred thirty-three, prior to 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 one hundred dollars' 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 tax commissioner and shall publish the statement forthwith. The session shall then stand adjourned until the third Tuesday in August, at which time it shall reconvene.

Sec. 12-a. Adjourned Session of Board of Education to

Hear Objection to Proposed Levies; Approval of Estimate and Levy by Tax Commissioner; First Levy for Bonded Indebtedness and Indebtedness not Bonded, Second for Permanent Improvement Fund, Then for Current Expenses. Each board of education when it reconvenes on the third Tuesday in August shall proceed in a manner similar in all respects to that provided for in section ten-a of this article. The board shall not finally enter any levy until it has been approved in writing by the tax commissioner. After receiving such 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 hundred dollars' assessed valuation on each class of property in the county or in the area of a pre-existing 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 prior to May twenty-second, one thousand nine hundred thirty-three and incurred prior to 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 shall not exceed the amounts fixed by section six-c 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.
Sec. 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;}
22 (6) The proposed rate of levy in cents on each one hundred dollars' assessed valuation of each class of property;
23 (7) The separate and aggregate assessed valuations of real, personal, and public utility property in each class in the municipality.
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25 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 August at which time it shall reconvene.

Sec. 14-a. 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 August shall proceed in a manner similar in all respects to that provided for in section ten-a of this article.

9 The governing body shall not finally enter any levy until it has been approved in writing by the state tax commissioner.
11 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.

Sec. 17. Publication and Posting of Notice of Election; Form of Ballot. The local levying body shall publish notice, calling the election, at least once each week for two successive weeks before the election in two newspapers of opposite poli-
tives and of general circulation in the territory in which the
election is held. If there is only one newspaper published
in the county, the publication shall be made therein. The
local levying body shall also post printed copies of the order
at each place of voting at least ten days before the election.
All the provisions of the laws concerning general elections
shall apply so far as they are practicable, except as follows:
Where a special election is held, the local levying body, having
due regard to the minimum expense involved, shall determine
the number of election officials necessary to properly conduct
said election, which number shall in no case be less than
three commissioners and two clerks, and shall appoint the
same and fix and pay their compensation; otherwise, the elec-
tion officials shall be such as are appointed to serve with re-
spect to the general election held at the same time. The local
levying body, however, shall provide the election supplies
necessary for such special election. A separate ballot shall be
used at a levy election held in connection with any other elec-
tion. The ballot shall be entitled: "Special election to au-
thorize additional levies for the year(s) ................... and for
the purpose of ............................ according to the order
26 of the ................................ entered on the ................................
27 day of .........................”
28 The additional levy shall be on class I property ..................
29 cents; on class II property ............... cents; on class III prop-
30 erty (if any) ............... cents; on class IV property (if any)
31 .......... cents.

Sec. 19. Section Repealed. This section is hereby re-
2 pealed.

Sec. 32. Publication or Posting. The requirement of pub-
2 lication under this article shall be met by publication twice
3 in two newspapers of general circulation and of opposite
4 politics, published in the taxing unit. If only one newspaper
5 is published in the taxing unit, publication shall be made
6 therein. If the taxing unit be a municipality and no news-
7 paper is published therein publication shall be made in two
8 newspapers of general circulation and of opposite politics,
9 published in the county wherein said municipality is located;
10 if two such newspapers of general circulation and of opposite
11 politics are not published in said county then publication may
12 be made in only one newspaper of general circulation pub-
13 lished therein. If no newspaper is published in the county
a true copy of the statement required to be published shall
be posted by the clerk or secretary at the front door of the
courthouse, or in the case of a municipality, the municipal
building, and at a public place in each subdivision of the
taxing unit, not less than three days after the adjournment
of the session provided for by section nine of this article.

Sec. 33. Acts Repealed. The following acts are hereby
repealed:

(1) Chapter fifty-one, acts of the Legislature of West
Virginia, second extraordinary session, one thousand nine
hundred thirty-three.

(2) Chapter sixty-nine, acts of the Legislature of West
Virginia, second extraordinary session, one thousand nine
hundred thirty-three.

(3) Chapter sixty-five, acts of the Legislature of West
Virginia, second extraordinary session, one thousand nine
hundred thirty-three.

(4) Chapter twelve, acts of the Legislature of West
Virginia, first extraordinary session, one thousand nine hun-
dred thirty-six.
Chapter twenty-six, acts of the Legislature of West Virginia, regular session, one thousand nine hundred thirty-seven.

All other acts, or parts of acts inconsistent with the provisions of this act are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect the day of passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within..............this the...day of......, 1939.

Governor.

Filed in the office of the Secretary of State
of West Virginia. FEB 21 1939
Wm. S. O'Brien,
Secretary of State