

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951

ENROLLED

SENATE BILL NO. 293

(By Mr. Bean)

PASSED March 10, 1951

In Effect Ninety days from Passage



293

ENROLLED

Senate Bill No. 293

(By MR. BEAN)

[Passed March 10, 1951; in effect ninety days from passage.]

AN ACT to amend and reenact section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, relating to refunds of taxes erroneously collected.

Be it enacted by the Legislature of West Virginia:

That section two-a, article one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as last amended by chapter one hundred twenty-nine, acts of the legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:

Section 2-a. *Refund of Taxes Erroneously Collected.*—

2 On and after the effective date of this act, any taxpayer

3 claiming to be aggrieved through being required to pay
4 any tax into the treasury of this state, may, within three
5 years from the date of such payment, and not after, file
6 with the official or department through which the tax was
7 paid, a petition in writing to have refunded to him any
8 such tax, or any part thereof, the payment whereof is
9 claimed by him to have been required unlawfully; and
10 if, on such petition, and the proofs filed in support thereof,
11 the official collecting the same shall be of the opinion that
12 the payment of the tax collected, or any part thereof was
13 improperly required, he shall refund the same to the
14 taxpayer by the issuance of his or its requisition on the
15 treasury upon which the auditor shall issue his warrant
16 as hereinafter provided; if the official collecting the same
17 shall be in doubt as to whether or not such taxes were un-
18 lawfully paid, or if he be of the opinion that the payment
19 of the tax collected, or any part thereof, was lawful, and
20 the taxpayer within thirty days after notice of such
21 opinion is not satisfied with the ruling of such official,
22 then such tax official may, on his own initiative, and
23 shall, upon written notice so to do from the taxpayer given

24 within said thirty-day period, promptly institute against
25 said taxpayer, in a court of competent jurisdiction, a
26 declaratory judgment proceeding to ascertain whether
27 any such tax, or part thereof, has been unlawfully col-
28 lected; if it be determined in such proceeding that any
29 such tax, or part thereof was unlawfully collected, then
30 such official shall promptly refund the same to the tax-
31 payer by the issuance of his or its requisition on the
32 treasury; and the auditor shall issue his warrant on the
33 treasurer for any refund requisitioned under this section,
34 payable to the taxpayer entitled to the refund, and the
35 treasurer shall pay such warrant out of the fund into
36 which the amount so refunded was originally paid: *Pro-*
37 *vided, however,* That no refund shall be made at any
38 time on any claim involving the assessed valuation or
39 appraisement of the property which was fixed at the
40 time the tax was originally paid; and, *Provided further,*
41 That such official shall be under no duty to institute any
42 such declaratory judgment proceeding unless it shall
43 appear that the taxpayer giving the notice as herein pro-
44 vided is acting in good faith and that there is a substantial
45 question as to the lawfulness of the collection of such tax.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd

Chairman Senate Committee

James M. Loop
Chairman House Committee

Originated in the Senate.

Takes effect *Ninety days from* passage.

Clerk of the Senate

J. R. Giff

Clerk of the House of Delegates

Joseph H. Wheeler

President of the Senate

W. E. Stamm

Speaker House of Delegates

The within *approved* this the *16th*
day of *March*, 1951.

Okey L. Patton
Governor.



of West Virginia **MAR 16 1951**
D. PITT O'BRIEN,
SECRETARY OF STATE