

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

SENATE BILL NO. 609

(Originating in the Committee
(By Senator on Finance)



PASSED March 9, 1990

In Effect 90 days from Passage

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Senate Bill No. 609

(ORIGINATING IN THE COMMITTEE ON FINANCE)

[Passed March 9, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections one and one-a, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twenty, article twenty, chapter thirty-one; to amend and reenact sections one, two and four-a, article three, chapter fifty; and to amend and reenact sections eleven and twenty-eight-a, article one, chapter fifty-nine of said code, all relating to the regional jail and prison development fund administered by the regional jail and correctional facilities authority; increasing maximum aggregate amount of indebtedness said authority may issue; increasing fees for filing civil actions in circuit and magistrate courts; creating filing fee schedule for civil actions in magistrate courts; increasing costs charged in criminal proceedings in circuit, magistrate and municipal courts, and requiring payment of increased amounts of such fees and costs into regional jail and prison development fund.

Be it enacted by the Legislature of West Virginia:

That sections one and one-a, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twenty, article twenty, chapter thirty-one of said

code be amended and reenacted; that sections one, two and four-a, article three, chapter fifty of said code be amended and reenacted; and that sections eleven and twenty-eight-a, article one, chapter fifty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO ORDINANCES AND ORDINANCE PROCEDURES.

§8-11-1. Ordinances to make municipal powers effective; penalties imposed under judgment of mayor or police court or municipal judge; right to injunctive relief; right to maintain action to collect fines against nonresidents.

1 To carry into effect the powers and authority
2 conferred upon any municipality or its governing body
3 by the provisions of this chapter, or any past or future
4 act of the Legislature of this state, the governing body
5 shall have plenary power and authority to make and
6 pass all needful ordinances, orders, bylaws, acts,
7 resolutions, rules and regulations not contrary to the
8 constitution and laws of this state; and, for a violation
9 thereof, to prescribe reasonable penalties in the form
10 of fines, forfeitures and imprisonment in the county
11 jail or the place of imprisonment in such municipality,
12 if there be one, for a term not exceeding thirty days.
13 Such fines, forfeitures and imprisonment shall be
14 recovered, imposed or enforced under the judgment of
15 the mayor of such municipality or the individual
16 lawfully exercising his functions, or the police court
17 judge or municipal court judge of a city, if there be
18 one, and may be suspended upon such reasonable
19 conditions as may be imposed by such mayor, other
20 authorized individual or judge. Any municipality may
21 also maintain a civil action in the name of the munic-
22 ipality in the circuit court of the county in which the
23 municipality or the major portion of the territory
24 thereof is located to obtain an injunction to compel
25 compliance with, or to enjoin a violation or threatened
26 violation of, any ordinance of such municipality, and
27 such circuit court shall have jurisdiction to grant the

28 relief sought. A certified transcript of a judgment for
29 a fine rendered by a municipal court may be filed in
30 the office of the clerk of a circuit court and docketed
31 in the judgment lien book kept in the office of the
32 clerk of the county commission in the same manner
33 and with the same effect as the filing and docketing of
34 a certified transcript of judgment rendered by a
35 magistrate court as provided for in section two, article
36 six, chapter fifty of this code. The judgment shall
37 include costs assessed against the defendant. In addi-
38 tion to any other costs which may be lawfully
39 imposed, an additional cost shall be imposed in an
40 amount of not less than forty-two dollars in each
41 proceeding, except that such additional cost shall not
42 be assessed for a traffic offense that is not a moving
43 violation, or an offense for which the ordinance does
44 not provide for a period of incarceration. Of the forty-
45 two dollars imposed as an additional cost, two dollars
46 shall be an administrative cost to be retained by the
47 municipality.

48 Execution shall be by fieri facias issued by the clerk
49 of the circuit court in the same manner as such writs
50 are issued on judgments for a fine rendered by circuit
51 courts or other courts of record under the provisions
52 of section eleven, article four, chapter sixty-two of this
53 code.

**§8-11-1a. Disposition of criminal costs into state treasury
account for regional jail and prison develop-
ment fund.**

1 The clerk of each municipal court, or such person
2 designated to receive fines and costs, shall at the end
3 of each month pay into the regional jail and prison
4 development fund in the state treasury an amount
5 equal to forty dollars of the costs collected in each
6 proceeding, except for traffic offenses that are not
7 moving violations: *Provided*, That in a case where a
8 defendant has failed to pay all costs assessed against
9 him, no payment shall be made to the regional jail and
10 prison development fund unless and until the defen-
11 dant has paid all costs which, when paid, are available
12 for the use and benefit of the municipality.

CHAPTER 31. CORPORATIONS.

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-20. Authorized limit on borrowing.

1 The aggregate principal amount of notes, security
 2 interests and bonds issued by the authority may not
 3 exceed two hundred million dollars outstanding at any
 4 one time. In computing the total amount of notes,
 5 security interests and bonds which may be outstanding
 6 at any one time, the principal amount of any outstand-
 7 ing notes, security interests and bonds refunded or to
 8 be refunded either by application of the proceeds of
 9 the sale of any refunding notes, security interests or
 10 refunding bonds of the authority or by exchange for
 11 any such notes, security interests or refunding bonds
 12 shall be excluded. The state board of investments may
 13 have invested no more than a total aggregate principal
 14 amount of fifteen million dollars at any one time in
 15 such notes, security interests or bonds.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-1. Costs in civil actions.

1 The following costs shall be charged in magistrate
 2 courts in civil actions and shall be collected in advance:

3 (a) For filing and trying any civil action and for all
 4 services connected therewith, but excluding services
 5 regarding enforcement of judgment, the following
 6 amounts dependent upon the amount of damages
 7 sought in the complaint:

- 8 Where the action is for five hundred dollars or
 9 less\$20.00
- 10 Where the action is for more than five hundred
 11 dollars but not more than one thousand
 12 dollars\$25.00
- 13 Where the action is for more than one thousand
 14 dollars but not more than two thousand
 15 dollars\$30.00

- 16 Where the action is for more than two thousand
- 17 dollars\$40.00
- 18 Where the action seeks relief other than money
- 19 damages\$20.00
- 20 (b) For each service regarding enforcement of a
- 21 judgment including execution, suggestion, garnish-
- 22 ment and suggestee execution\$5.00
- 23 (c) For each bond filed in a case\$1.00
- 24 (d) For taking deposition of witness for each hour or
- 25 portion thereof\$1.00
- 26 (e) For taking and certifying acknowledgment of a
- 27 deed or other writing or taking oath upon an
- 28 affidavit\$.50
- 29 (f) For mailing any matter required or provided by
- 30 law to be mailed by certified or registered mail with
- 31 return receipt\$1.00

32 Costs incurred in a civil action shall be reflected in
 33 any judgment rendered thereon. The provisions of
 34 section one, article two, chapter fifty-nine of this code,
 35 relating to the payment of costs by poor persons, shall
 36 be applicable to all costs in civil actions.

§50-3-2. Costs in criminal proceedings.

1 In each criminal case tried in a magistrate court in
 2 which the defendant is convicted there shall be
 3 imposed, in addition to such other costs, fines, forfei-
 4 tures or penalties as may be allowed by law, costs in
 5 the amount of fifty dollars. No such costs shall be
 6 collected in advance.

7 A magistrate shall assess costs in the amount of two
 8 dollars and fifty cents for issuing a sheep warrant,
 9 appointment and swearing appraisers and docketing
 10 the same.

11 In each criminal case which must be tried by the
 12 circuit court but in which a magistrate renders some
 13 service, costs in the amount of ten dollars shall be
 14 imposed by the magistrate court and shall be certified
 15 to the clerk of the circuit court in accordance with the

16 provisions of section six, article five, chapter sixty-two
17 of this code.

**§50-3-4a. Disposition of criminal costs and civil filing fees
into state treasury account for regional jail
and prison development fund.**

1 The clerk of each magistrate court shall, at the end
2 of each month, pay into the regional jail and prison
3 development fund in the state treasury an amount
4 equal to forty dollars of the costs collected in each
5 criminal proceeding and all but ten dollars of the costs
6 collected for the filing of each civil action.

**CHAPTER 59. FEES, ALLOWANCES AND COSTS; NEWS-
PAPERS; LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-11. Fees to be charged by clerk of circuit court.

1 The clerk of a circuit court shall charge and collect
2 for services rendered as such clerk the following fees,
3 and such fees shall be paid in advance by the parties
4 for whom such services are to be rendered:

5 For instituting any civil action under the rules of
6 civil procedure, any statutory summary proceeding,
7 any extraordinary remedy, the docketing of civil
8 appeals, or any other action, cause, suit or proceeding,
9 seventy dollars: *Provided*, That the fee for instituting
10 an action for divorce shall be twenty dollars plus the
11 fee required by section six, article two-c, chapter
12 forty-eight of this code.

13 In addition to the foregoing fees, the following fees
14 shall likewise be charged and collected:

15 For any transcript, copy or paper made by the clerk
16 for use in any other court or otherwise to go out of the
17 office, for each page, twenty-five cents;

18 For action on suggestion, five dollars;

19 For issuing an execution, two dollars;

20 For issuing or renewing a suggestee execution,
21 including copies, postage, registered or certified mail

22 fees and the fee provided by section four, article five-
23 a, chapter thirty-eight of this code, three dollars;

24 For vacation or modification of a suggestee execu-
25 tion, one dollar;

26 For docketing and issuing an execution on a tran-
27 script of judgment from magistrate's court, three
28 dollars;

29 For arranging the papers in a certified question, writ
30 of error, appeal or removal to any other court, five
31 dollars;

32 For postage and express and for sending or receiving
33 decrees, orders or records, by mail or express, three
34 times the amount of the postage or express charges;

35 For each witness summons over and above five, on
36 the part of either plaintiff or defendant, to be paid by
37 the party requesting the same, twenty-five cents;

38 For additional services (plaintiff or appellant) where
39 any case remains on the docket longer than three
40 years, for each additional year or part year, five
41 dollars.

42 The clerk shall tax the following fees for services in
43 any criminal case against any defendant convicted in
44 such court:

45 In the case of any misdemeanor, fifty dollars;

46 In the case of any felony, sixty dollars;

47 No such clerk shall be required to handle or accept
48 for disbursement any fees, costs or accounts, of any
49 other officer or party not payable into the county
50 treasury, except it be on order of the court or in
51 compliance with the provisions of law governing such
52 fees, costs or accounts.

**§59-1-28a. Disposition of filing fees in civil actions and fees
for services in criminal cases.**

1 (a) The clerk of each circuit court shall, at the end
2 of each month, pay into the regional jail and prison
3 development fund in the state treasury an amount

4 equal to sixty dollars of every filing fee received for
5 instituting any civil action under the rules of civil
6 procedure, any statutory summary proceeding, any
7 extraordinary remedy, the docketing of civil appeals,
8 or any other action, cause, suit or proceeding in the
9 circuit court: *Provided*, That in actions for divorce, the
10 clerk shall pay into such fund an amount equal to ten
11 dollars of the filing fee for instituting such actions.

12 (b) The clerk of each circuit court shall, at the end
13 of each month, pay into the regional jail and prison
14 development fund in the state treasury an amount
15 equal to forty dollars of every fee for service received
16 in any criminal case against any defendant convicted
17 in such court.

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

Frederick R. Perce
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harrell P. Holmes
.....
Clerk of the Senate

Donald L. Hoop
.....
Clerk of the House of Delegates

Walter Burdette
.....
President of the Senate

Robert Chamberlain
.....
Speaker House of Delegates

The within *is approved* this the *24th*
day of *March* 189*9*

Walter B. Capron
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/16/90

Time

3:59 pm

RECEIVED

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SECRETARY OF WAR