

H. B. 2270

(By Delegate Cann)

[Introduced January 12, 2011; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-3-1 of the Code of West Virginia, 1931, as amended, relating to prohibiting increases in the assessed value of real property located in counties where a maximum excess levy is in effect, the property has not changed in tax classification, and the increased value is more than two percent over the assessed value of the same property for the previous year.

Be it enacted by the Legislature of West Virginia:

That §11-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ASSESSMENTS GENERALLY.

§11-3-1. Time and basis of assessments; true and actual value; default; reassessment; special assessors; criminal penalty.

1 (a) All property, except public service businesses assessed
2 pursuant to article six of this chapter, shall be assessed annually
3 as of July 1 at sixty percent of its true and actual value, that is
4 to say, at the price for which the property would sell if
5 voluntarily offered for sale by the owner thereof, upon the terms
6 as the property, the value of which is sought to be ascertained, is
7 usually sold, and not the price which might be realized if the
8 property were sold at a forced sale.

9 (b) Any conflicting provisions of subsection (a) of this
10 section notwithstanding, the true and actual value of all property
11 owned, used and occupied by the owner thereof exclusively for
12 residential purposes shall be arrived at by also giving
13 consideration to the fair and reasonable amount of income which the
14 same might be expected to earn, under normal conditions in the
15 locality wherein situated, if rented: *Provided*, That the true and
16 actual value of all farms used, occupied and cultivated by their
17 owners or bona fide tenants shall be arrived at according to the
18 fair and reasonable value of the property for the purpose for which
19 it is actually used regardless of what the value of the property
20 would be if used for some other purpose; and that the true and
21 actual value shall be arrived at by giving consideration to the
22 fair and reasonable income which the same might be expected to earn
23 under normal conditions in the locality wherein situated, if
24 rented: *Provided, however*, That nothing herein shall alter the

1 method of assessment of lands or minerals owned by domestic or
2 foreign corporations.

3 (c) The taxes upon all property shall be paid by those who are
4 the owners thereof on the assessment date whether it be assessed to
5 them or others. If the county in which the property is located has
6 an excess levy in effect which is set at the maximum amount allowed
7 under the provisions of section six-b, article eight of this
8 chapter, there may be no increase in assessed value for any real
9 property which has not changed in tax classification and which is
10 more than two percent over the assessed value of the same property
11 for the previous year.

12 (d) If at any time after the beginning of the assessment year,
13 it be ascertained by the Tax Commissioner that the assessor, or any
14 of his or her deputies, is not complying with this provision or
15 that they have failed, neglected or refused, or is failing,
16 neglecting or refusing after five days' notice to list and assess
17 all property therein at sixty percent of its true and actual value
18 as determined under this chapter, the Tax Commissioner may order
19 and direct a reassessment of any or all of the property in any
20 county, district or municipality, where any assessor, or deputy,
21 fails, neglects or refuses to assess the property in the manner
22 herein provided. And, for the purpose of making assessment and
23 correction of values, the Tax Commissioner may appoint one or more
24 special assessors, as necessity may require, to make assessment in

1 any county and any such special assessor or assessors, as the case
2 may be, has the power and authority now vested by law in assessors,
3 and the work of such special assessor or assessors shall be
4 accepted and treated for all purposes by the county boards of
5 review and equalization and the levying bodies, subject to any
6 revisions of value on appeal, as the true and lawful assessment of
7 that year as to all property valued by him or her or them. The Tax
8 Commissioner shall fix the compensation of all special assessors
9 appointed, which, together with their actual expenses, shall be
10 paid out of the county fund by the county commission of the county
11 in which any such assessment is ordered, upon the receipt of a
12 certificate of the Tax Commissioner filed with the clerk of the
13 county commission showing the amounts due and to whom payable,
14 after such expenses have been audited by the county commission.

15 (e) Any assessor who knowingly fails, neglects or refuses to
16 assess all the property of his or her county, as herein provided,
17 shall be guilty of malfeasance in office and, upon conviction
18 thereof, shall be fined not less than \$100 nor more than \$500, or
19 imprisoned not less than three nor more than six months, or both,
20 in the discretion of the court, and upon conviction, shall be
21 removed from office.

22 (f) For purposes of this chapter and chapter eleven-a of this
23 code, the following terms have the meanings ascribed to them in
24 this section unless the context in which the term is used clearly

1 indicates that a different meaning is intended by the Legislature:

2 (1) "Assessment date" means July 1 of the year preceding the
3 tax year.

4 (2) "Assessment year" means the twelve-month period that
5 begins on the assessment date.

6 (3) "Tax year" or "property tax year" means the next calendar
7 year that begins after the assessment date.

8 (4) "Taxpayer" means the owner and any other person in whose
9 name the taxes on the subject property are lawfully assessed.

NOTE: The purpose of this bill is to prohibit increases in the assessed value of real property which is located in a county where a maximum excess levy is in effect, the property has not changed in tax classification and the increased value is more than two percent over the assessed value of the same property for the previous year.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.