

1 by adding thereto a new article, designated §11-13CC-1, §11-13CC-2,
2 §11-13CC-3, §11-13CC-4, §11-13CC-5, §11-13CC-6, §11-13CC-7,
3 §11-13CC-8, §11-13CC-9 and §11-13CC-10, all to read as follows:

4 **ARTICLE 13CC. THE TAXPAYER'S BILL OF RIGHTS ACT.**

5 **§11-13CC-1. Short title.**

6 This article shall be known and may be cited as the
7 "Taxpayer's Bill of Rights Act."

8 **§11-13CC-2. General provisions.**

9 The preferred interpretation of this article shall reasonably
10 restrain most of the growth of government. All provisions are
11 self-executing and severable and supersede conflicting state
12 constitutional, state statutory, charter, or other state or local
13 provisions. Other limits on state and its subdivisions revenue,
14 spending and debt may be weakened only by future voter approval.
15 Individual or class action enforcement suits may be filed and shall
16 have the highest civil priority of resolution. Successful
17 plaintiffs are allowed costs and reasonable attorney fees, but the
18 state and its subdivisions are not, unless a suit against it be
19 ruled frivolous. Revenue collected, kept, or spent illegally since
20 four full fiscal years before a suit is filed shall be refunded
21 with ten percent annual simple interest from the initial conduct.
22 Subject to judicial review, the state and its subdivisions may use
23 any reasonable method for refunds under this article, including
24 temporary tax credits or rate reductions. Refunds need not be

1 proportional when prior payments are impractical to identify or
2 return. When annual state or its subdivisions revenue is less than
3 annual payments on general obligation bonds, pensions, and final
4 court judgments, sections five and eight of this article shall be
5 suspended to provide for the deficiency.

6 **§11-13CC-3. Definitions.**

7 For the purpose of this article:

8 (1) "Ballot issue" means a nonrecall petition or referred
9 measure in an election.

10 (2) "Emergency" excludes economic conditions, revenue
11 shortfalls, or state or its subdivisions salary or fringe benefit
12 increases.

13 (3) "Enterprise" means a government-owned business authorized
14 to issue its own revenue bonds and receiving under ten percent of
15 annual revenue in grants from all state and local governments
16 combined.

17 (4) "Fiscal year spending" means all state or its subdivisions
18 expenditures and reserve increases except, as to both, those for
19 refunds made in the current or next fiscal year or those from
20 gifts, federal funds, collections for another government, pension
21 contributions by employees and pension fund earnings, reserve
22 transfers or expenditures, damage awards or property sales.

23 (5) "Inflation" means the percentage change in the United
24 States Bureau of Labor Statistics Consumer Price Index for

1 Charleston, all items, all urban consumers, or its successor index.

2 (6) "Local growth" means the percentage change in county
3 student enrollment.

4 (7) "State and/or its subdivisions" means the State of West
5 Virginia, its political subdivisions and county and municipal
6 governments.

7 **§11-13CC-4. Elections; general provisions.**

8 (a) Ballot issues shall be decided in a state general election
9 or on the first Tuesday in November of even-numbered years. Except
10 for petitions, bonded debt, or charter or constitutional
11 provisions, the state and its subdivisions may consolidate ballot
12 issues and voters may approve a delay of up to four years in voting
13 on ballot issues. State or its subdivisions actions taken during
14 such a delay may not extend beyond that period.

15 (b) At least thirty days before a ballot issue election, the
16 state and its subdivisions shall mail at the least cost, and as a
17 package where the state and its subdivisions with ballot issues
18 overlap, a titled notice or set of notices addressed to "All
19 Registered Voters" at each address of one or more active registered
20 electors. The state and its subdivisions may coordinate this
21 mailing required in order to save mailing costs. Titles shall have
22 this order of preference: "NOTICE OF ELECTION TO INCREASE TAXES/TO
23 INCREASE DEBT/ON A CITIZEN PETITION/ON A REFERRED MEASURE." Except
24 for the state and its subdivisions voter-approved additions,

1 notices shall include only: (1) The election date, hours, ballot
2 title, text, and local election office address and telephone
3 number; (2) for the proposed state or its subdivisions tax or
4 bonded debt increases, the estimated or actual total of the state
5 and its subdivisions fiscal year spending for the current year and
6 each of the past four years, and the overall percentage and dollar
7 change; (3) for the first full fiscal year of each proposed state
8 or its subdivisions tax increase, the state or its subdivisions
9 estimates of the maximum dollar amount of each increase and of the
10 state or its subdivisions fiscal year spending without the
11 increase; (4) for the proposed state or its subdivisions bonded
12 debt, its principal amount and maximum annual and total the state
13 or its subdivisions repayment cost, and the principal balance of
14 the total current state or its subdivisions bonded debt and its
15 maximum annual and remaining total of the state or its subdivisions
16 repayment cost; and (5) two summaries, up to five hundred words
17 each, one for and one against the proposal, of written comments
18 filed with the election officer by forty-five days before the
19 election. No summary shall mention names of persons or private
20 groups, nor any endorsements of or resolutions against the
21 proposal. Petition representatives following these rules shall
22 write this summary for their petition. The election officer shall
23 maintain and accurately summarize all other relevant written
24 comments.

1 (c) Except by later voter approval, if a tax increase or
2 fiscal year spending exceeds any estimate in subdivision (3),
3 subsection (b) of this section for the same fiscal year, the tax
4 increase is thereafter reduced up to one hundred percent in
5 proportion to the combined dollar excess, and the combined excess
6 revenue refunded in the next fiscal year. State or its subdivisions
7 bonded debt shall not issue on terms that could exceed its share of
8 its maximum repayment costs in subdivision (4), subsection (b) of
9 this section. Ballot titles for tax or bonded debt increases shall
10 begin, "SHALL (STATE or POLITICAL SUBDIVISION) TAXES BE INCREASED
11 (first, or if phased in, final, full fiscal year dollar increase)
12 ANNUALLY" or "SHALL (STATE or POLITICAL SUBDIVISION) DEBT BE
13 INCREASED (principal amount), WITH A REPAYMENT COST OF (maximum
14 total the state or its subdivisions cost)."

15 **§11-13CC-5. Required elections.**

16 Starting November 4, 2014, the state and its subdivisions must
17 have voter approval in advance for: (1) Unless sections two or
18 seven of this article applies, any new tax, tax rate increase, mill
19 levy above that for the prior year, valuation for assessment ratio
20 increase for a property class, or extension of an expiring tax, or
21 a tax policy change directly causing a net tax revenue gain to the
22 state or its subdivisions; and (2) except for refinancing the state
23 or its subdivisions bonded debt at a lower interest rate or adding
24 new employees to existing the state or its subdivisions pension

1 plans, creation of any multiple-fiscal year direct or indirect the
2 state or its subdivisions debt or other financial obligation
3 whatsoever without adequate present cash reserves pledged
4 irrevocably and held for payments in all future fiscal years.

5 **§11-13CC-6. Emergency reserves.**

6 To use for declared emergencies only, the state and each of
7 its subdivisions shall reserve for 2013, one percent or more, for
8 2014, two percent or more, and for all later years three percent or
9 more of its fiscal year spending excluding bonded debt service.
10 Unused reserves apply to the next year's reserve.

11 **§11-13CC-7. Emergency taxes.**

12 This section grants no new taxing power. Emergency property
13 taxes are prohibited. Emergency tax revenue is excluded for
14 purposes of subsection (c), section four and section eight of this
15 article even if later ratified by voters. Emergency taxes shall
16 also meet all of the following conditions: (1) A two-thirds
17 majority of the members of both the House of Delegates and the
18 Senate or of a county or municipal government declares the
19 emergency and imposes the tax by separate recorded roll call votes;
20 (2) emergency tax revenue shall be spent only after emergency
21 reserves are depleted, and shall be refunded within one hundred
22 eighty days after the emergency ends if not spent on the emergency;
23 and (3) a tax not approved on the next election date sixty days or
24 more after the declaration shall end with that election month.

1 **§11-13CC-8. Spending limits.**

2 (a) The maximum annual percentage change in state fiscal year
3 spending equals inflation plus the percentage change in state
4 population in the prior calendar year, adjusted for revenue changes
5 approved by voters after 2012. Population shall be determined by
6 annual federal census estimates and such number shall be adjusted
7 every decade to match the federal census.

8 (b) The maximum annual percentage change fiscal year spending
9 equals inflation in the prior calendar year plus annual local
10 growth, adjusted for revenue changes approved by voters after 2012
11 and subsection (b), section nine and section ten of this article
12 reductions.

13 (c) The maximum annual percentage change in the state or its
14 subdivisions' property tax revenue equals inflation in the prior
15 calendar year plus annual local growth, adjusted for property tax
16 revenue changes approved by voters after 2012 and subsection (b),
17 section nine and section ten of this article reductions.

18 (d) If revenue from sources not excluded from fiscal year
19 spending exceeds these limits in dollars for that fiscal year, the
20 excess shall be refunded in the next fiscal year unless voters
21 approve a revenue change as an offset. Initial state and its
22 subdivisions' bases are current fiscal year spending and 2012
23 property tax. Qualification or disqualification as an enterprise
24 shall change the state or its subdivisions' bases and future year

1 limits. Future creation of state or its subdivisions bonded debt
2 shall increase, and retiring or refinancing the state or its
3 subdivisions bonded debt shall lower, fiscal year spending and
4 property tax revenue by the annual debt service so funded. Debt
5 service changes, reductions, section two and subsection (c),
6 section four of this article refunds, and voter-approved revenue
7 changes are dollar amounts that are exceptions to, and not part of,
8 the state or its subdivisions base. Voter-approved revenue changes
9 do not require a tax rate change.

10 **§11-13CC-9. Revenue limits.**

11 (a) New or increased transfer tax rates on real property are
12 prohibited. No new state real property tax or local income tax
13 shall be imposed. Neither an income tax rate increase nor a new
14 state definition of taxable income shall apply before the next tax
15 year. Any income tax law change after July 1, 2013, shall also
16 require all taxable net income to be taxed at one rate, excluding
17 refund tax credits or voter-approved tax credits, with no added tax
18 or surcharge.

19 (b) The state and its subdivisions may enact cumulative
20 uniform exemptions and credits to reduce or end business personal
21 property taxes.

22 (c) Regardless of reassessment frequency, valuation notices
23 shall be mailed annually and may be appealed annually, with no
24 presumption in favor of any pending valuation. Past or future sales

1 by a lender or government shall also be considered as comparable
2 market sales and their sales prices kept as public records. Actual
3 value shall be stated on all property tax bills and valuation
4 notices and, for residential real property, determined solely by
5 the market approach to appraisal.

6 **§11-13CC-10. State mandates.**

7 Except for public education kindergarten through grade twelve
8 or as required of the state or its subdivisions by federal law, it
9 may reduce or end its subsidy to any program delegated to it by the
10 general assembly for administration. For current programs, the
11 state may require ninety days notice and that the adjustment occur
12 in a maximum of three equal annual installments.

NOTE: The purpose of this bill is to create the Taxpayer's Bill of Rights Act. The bill provides a preferred interpretation of the act. The bill requires voter approval to increase governmental spending or debt. The bill requires elections and sets forth election provisions. The bill requires summaries of ballot issues be mailed to voters. The bill provides exceptions. The bill provides for emergency reserves and emergency taxes. The bill provides spending and revenue limits. The bill defines terms. The bill also provides for civil suits and judicial review.

This article is new; therefore, strike-throughs and underscoring have been omitted.