

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2913**

4 (By Delegates White and Marcum)

5
6 (Originating in the Committee on Finance)

7 [March 22, 2013]

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9
10 A BILL to amend the Code of West Virginia, 1931, as amended by
11 adding thereto a new section, designated §11-10-26, relating
12 to correction of certain erroneous distributions, transfers,
13 allocations, overpayments or underpayments; specifying
14 immunity of agencies, subdivisions and instrumentalities of
15 this state from any fine, penalty, assessment or imposition as
16 a result of, or attributable to the erroneous distribution,
17 transfer, allocation, overpayment or underpayment of moneys.

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

19 That of the Code of West Virginia, 1931, as amended, be
20 amended by adding thereto a new section, designated §11-10-26, to
21 read as follows:

22 **ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

23 **§11-10-26. Adjustment for correction of erroneous distribution of**
24 **funds, limitation period, immunity of agencies,**
25 **subdivisions, and instrumentalities of this state.**

1 (a) An erroneous distribution, transfer, allocation,
2 overpayment or underpayment dedicated, distributed or directed by
3 the state or an instrumentality of the state to a state or local
4 governmental subdivision or a fund, entity, agency or
5 instrumentality of the state or a political subdivision of the
6 state, under the provisions of this code administered under this
7 article, or under the provisions of article twenty-two,
8 twenty-two-a, twenty-two-b, twenty-two-c or twenty-five, chapter
9 twenty-nine of this code, or any other provision of this code, or
10 any combination thereof, caused by clerical error or mistake, or a
11 computational, informational or other mistake or error, may be
12 corrected by an adjustment to a distribution, transfer, allocation
13 or payment to the subdivision, entity, agency, instrumentality or
14 fund and by transfer of moneys from the subdivision, entity,
15 agency, instrumentality or fund until the amount of the erroneous
16 distribution, transfer, allocation, overpayment or underpayment has
17 been corrected: *Provided*, That no correction or adjustment may be
18 made for an erroneous distribution, transfer, allocation,
19 overpayment or underpayment of moneys that is first discovered more
20 than three years after the erroneous distribution, transfer,
21 allocation, overpayment or underpayment of moneys was made, and no
22 action lies for collection, correction or remediation of the late
23 discovered erroneous distribution, transfer, allocation,
24 overpayment or underpayment of the moneys.

25 (b) An agency, governmental subdivision or instrumentality of
26 this state is not subject to a fine, penalty, assessment or

1 imposition as a result of, or attributable to, an erroneous
2 distribution, transfer, allocation, overpayment or underpayment of
3 moneys.