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**Senate Bill No. 581**

(By Senators Kirkendoll, Kessler (Mr. President), Beach, Barnes  
and Fitzsimmons)

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[Introduced March 20, 2013; referred to the Committee on the  
Judiciary; and then to the Committee on Finance.]

**FISCAL  
NOTE**

10 A BILL to amend and reenact §59-1-10 and §59-1-11 of the Code of  
11 West Virginia, 1931, as amended, all relating to increasing  
12 certain filing fees in certain civil actions; establishing new  
13 filing fees in certain civil actions; and requiring that those  
14 new and increased fees be deposited in the existing Fund for  
15 Civil Legal Services for Low-Income Persons and an amount  
16 retained by the clerk's office.

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

18 That §59-1-10 and §59-1-11 of the Code of West Virginia, 1931,  
19 as amended, be amended and reenacted, all to read as follows:

20 **ARTICLE 1. FEES AND ALLOWANCES.**

21 **§59-1-10. Fees to be charged by clerk of county commission.**

22 For the purpose of this section, the word "page" is defined as  
23 being a paper or electronic writing of not more than legal size, 8

1 ½" x 14".

2 (a) When a writing is admitted to record, for receiving proof  
3 of acknowledgment thereof, entering an order in connection  
4 therewith, endorsing clerk's certificate of recordation thereon and  
5 indexing in a proper index, the clerk of the county commission  
6 shall charge and collect the following fees:

7 (1) Fifteen dollars for a deed of conveyance (with or without  
8 a plat), trust deed, fixture filing or security agreement  
9 concerning real estate lease.

10 (2) Forty dollars for a trustee's report of sale for any  
11 property for which additional information and filing requirements  
12 are required by section eight-a, article one, chapter thirty-eight  
13 of this code. Twenty dollars of each recording fee received  
14 pursuant to this subdivision shall be deposited into the county's  
15 General Revenue Fund and \$20 paid quarterly by the clerk of the  
16 county commission to the West Virginia Housing Development Fund  
17 established in article eighteen, chapter thirty-one of this code.

18 (3) ~~Ten~~ Twenty dollars for a financing, continuation,  
19 termination or other statement or writing permitted to be filed  
20 under chapter forty-six of this code. Ten dollars of each  
21 recording fee received pursuant to this subdivision shall be  
22 deposited in the special revenue account created by paragraph (B),  
23 subdivision (4), subsection (c) of this section to provide civil

1 legal services for low-income persons.

2 (4) Ten dollars for a plat or map (with no deed of  
3 conveyance).

4 (5) No charge for a service discharge record.

5 (6) Fifteen dollars for any notice of substitution of trustee  
6 or trustees and for any other document filed pursuant to section  
7 thirteen, article one, chapter thirty-eight of this code. Ten  
8 dollars of each recording fee received pursuant to this subdivision  
9 shall be deposited in the special revenue account created by  
10 paragraph (B), subdivision (4), subsection (c) of this section to  
11 provide civil legal services for low-income persons.

12 ~~(6)~~ (7) Ten dollars for any document or writing other than  
13 those referenced in subdivisions (1), (2), (3), (4) and (5) of this  
14 subsection.

15 ~~(7)~~ (8) One dollar for each additional page for documents or  
16 writings containing more than five pages.

17 For any of the documents admitted to record pursuant to this  
18 subsection, if the clerk of the county commission has the  
19 technology available to receive these documents in electronic form  
20 or other media, the clerk shall set a reasonable fee to record  
21 these writings not to exceed the cost for filing paper documents.

22 ~~(8)~~ (9) Of the fees collected pursuant to subdivision (1),  
23 subsection (a) of this section, \$10 shall be deposited in the

1 county general fund in accordance with section twenty-eight of this  
2 article and \$1 shall be deposited in the county general fund and  
3 dedicated to the operation of the county clerk's office. Four  
4 dollars of the fees collected pursuant to subdivision (1),  
5 subsection (a) of this section and \$5 of the fees collected  
6 pursuant to subdivision (6), subsection (a) of this section shall  
7 be paid by the county clerk into the State Treasury and deposited  
8 in equal amounts for deposit into the Farmland Protection Fund  
9 created in article twelve, chapter eight-a of this code for the  
10 benefit of the West Virginia Agricultural Land Protection Authority  
11 and into the Outdoor Heritage Conservation Fund created in article  
12 two-g, chapter five-b of this code. The funds deposited in the  
13 State Treasury pursuant to this subdivision may only be used for  
14 costs, excluding personnel costs, associated with purpose of land  
15 conservation, as defined in subsection (f), section seven, article  
16 two-g, chapter five-b of this code.

17 (b) Five dollars for administering any oath other than oaths  
18 by officers and employees of the state, political subdivisions of  
19 the state or a public or quasi-public entity of the state or a  
20 political subdivision of the state, taken in his or her official  
21 capacity.

22 (c) Fifty-five dollars for issuance of marriage license and  
23 other duties pertaining to the marriage license (including

1 preparation of the application, administering the oath,  
2 registering and recording the license, mailing acknowledgment of  
3 minister's return to one of the licensees and notification to a  
4 licensee after sixty days of the nonreceipt of the minister's  
5 return). This fee is reduced to \$35 if the applicants present a  
6 premarital education course completion certificate issued pursuant  
7 to section seven hundred one, article two, chapter forty-eight of  
8 this code, and dated within one year of the application for a  
9 marriage license.

10 (1) One dollar of the marriage license fee received pursuant  
11 to this subsection shall be paid by the county clerk into the State  
12 Treasury as a state registration fee in the same manner that  
13 license taxes are paid into the Treasury under article twelve,  
14 chapter eleven of this code;

15 (2) Fifteen dollars of the marriage license fee received  
16 pursuant to this subsection shall be paid by the county clerk into  
17 the State Treasury for the Family Protection Shelter Support Act in  
18 the same manner that license taxes are paid into the Treasury under  
19 article twelve, chapter eleven of this code;

20 (3) Ten dollars of the marriage license fee received pursuant  
21 to this subsection shall be deposited in the Courthouse Facilities  
22 Improvement Fund created by section six, article twenty-six,  
23 chapter twenty-nine of this code; and

1 (4) If a premarital education course completion certificate is  
2 not presented, the county clerk shall, on or before the tenth day  
3 of each month, transmit \$20 of the marriage license fee received  
4 pursuant to this subsection to the State Treasurer for deposit in  
5 the State Treasury as follows:

6 (A) Five dollars to the credit of the Family Protection  
7 Shelter Support Act in the same manner that license taxes are paid  
8 into the Treasury under article twelve, chapter eleven of this  
9 code;

10 (B) Five dollars to the credit of the special revenue account,  
11 hereby created, designated the "Fund for Civil Legal Services for  
12 Low Income Persons," which shall consist of all gifts, grants,  
13 bequests, transfers, appropriations or other donations or payments  
14 which may be received and administered by the Division of Justice  
15 and Community Services from any governmental entity or unit or any  
16 person, firm, foundation, or corporation for the purposes of this  
17 section, and all interest or other return earned from investment of  
18 the fund. Expenditures from the fund shall be made by the Director  
19 of the Division of Justice and Community Services and shall be  
20 limited to grants to nonprofit agencies which provide civil legal  
21 services to low-income persons made at his or her discretion. Any  
22 balance in the fund at the end of each fiscal year shall not revert  
23 to the General Revenue Fund but shall remain in the fund and be

1 expended as provided by this section.

2 (d) Ten dollars to the credit of the Marriage Education Fund  
3 created pursuant to section seven hundred two, article two, chapter  
4 forty-eight of this code.

5 (e) (1) One dollar and fifty cents for a copy of any writing  
6 or document, if it is not otherwise provided for.

7 (2) One dollar for each additional page if the writing or  
8 documents contains more than two pages.

9 (3) One dollar for annexing the seal of the commission or  
10 clerk to any paper.

11 (4) Five dollars for a certified copy of a birth certificate,  
12 death certificate or marriage license.

13 (f) For copies of any record in electronic form or a medium  
14 other than paper, a reasonable fee set by the clerk of the county  
15 commission not to exceed the costs associated with document search  
16 and duplication.

17 **§59-1-11. Fees to be charged by clerk of circuit court.**

18 (a) The clerk of a circuit court shall charge and collect for  
19 services rendered by the clerk the following fees which shall be  
20 paid in advance by the parties for whom services are to be  
21 rendered:

22 (1) For instituting any civil action under the Rules of Civil  
23 Procedure, any statutory summary proceeding, any extraordinary

1 remedy, the docketing of civil appeals, removals of civil cases  
2 from magistrate court or any other action, cause, suit or  
3 proceeding, ~~\$155~~ \$200, of which \$30 shall be deposited in the  
4 Courthouse Facilities Improvement Fund created by section six,  
5 article twenty-six, chapter twenty-nine of this code, \$35 shall be  
6 deposited in the special revenue account created by paragraph (B),  
7 subdivision (4), subsection (c), section ten of this article to  
8 provide civil legal services for low-income persons, ~~and~~ \$20  
9 deposited in the special revenue account created in section six  
10 hundred three, article twenty-six, chapter forty-eight of this code  
11 to provide legal services for domestic violence victims and \$10  
12 shall be retained by the clerk to support the operation of the  
13 clerk's office;

14       (2) For instituting an action for medical professional  
15 liability, \$280, of which \$10 shall be deposited in the Courthouse  
16 Facilities Improvement Fund created by section six, article  
17 twenty-six, chapter twenty-nine of this code;

18       (3) Beginning on and after July 1, 1999, for instituting an  
19 action for divorce, separate maintenance or annulment, \$135;

20       (4) For petitioning for the modification of an order involving  
21 child custody, child visitation, child support or spousal support,  
22 \$85; ~~and~~

23       (5) For petitioning for an expedited modification of a child



1 support order, \$35;

2 (6) For filing any pleading that includes one or more  
3 counterclaim, cross complaint, or third party or intervenor  
4 complaint, or for filing a motion or request that a matter be  
5 designated as a complex litigation case, \$200, which shall be  
6 deposited in the special revenue account created by paragraph (B),  
7 subdivision (4), subsection (c), section ten of this article to  
8 provide civil legal services for low-income persons. However, this  
9 subdivision does not apply to cases involving marital divorce;

10 (7) For filing any motion to transfer any case to the Business  
11 Court Division, \$200, which shall be deposited in the special  
12 revenue account created by paragraph (B), subdivision (4),  
13 subsection (c), section ten of this article to provide civil legal  
14 services for low-income persons;

15 (8) For entering any order by a court on its own motion  
16 transferring any case to the Business Court Division, \$200, which  
17 shall be assessed by the transferring court in equal amounts upon  
18 the parties in the case and which shall be deposited in the special  
19 revenue account created by paragraph (B), subdivision (4),  
20 subsection (c), section ten of this article to provide civil legal  
21 services for low income persons; and

22 (9) For filing any petition or motion in a circuit court to  
23 certify a question or questions to the Supreme Court of Appeals or

1 any motion for relief from judgment pursuant to Rule 60(b) of the  
2 West Virginia Rules of Civil Procedure, \$100, which shall be  
3 deposited in the special revenue account created by paragraph (B),  
4 subdivision (4), subsection (c), section ten of this article to  
5 provide civil legal services for low-income persons.

6 (b) In addition to the foregoing fees, the following fees  
7 shall be charged and collected:

8 (1) For preparing an abstract of judgment, \$5;

9 (2) For a transcript, copy or paper made by the clerk for use  
10 in any other court or otherwise to go out of the office, for each  
11 page, \$1;

12 (3) For issuing a suggestion and serving notice to the debtor  
13 by certified mail, \$25;

14 (4) For issuing an execution, \$25;

15 (5) For issuing or renewing a suggestee execution and serving  
16 notice to the debtor by certified mail, \$25;

17 (6) For vacation or modification of a suggestee execution, \$1;

18 (7) For docketing and issuing an execution on a transcript of  
19 judgment from magistrate court, \$3;

20 (8) For arranging the papers in a certified question, writ of  
21 error, appeal or removal to any other court, \$10, of which \$5 shall  
22 be deposited in the Courthouse Facilities Improvement Fund created  
23 by section six, article twenty-six, chapter twenty-nine of this

1 code;

2 (9) For each subpoena, on the part of either plaintiff or  
3 defendant, to be paid by the party requesting the same, \$0.50;

4 (10) For additional service, plaintiff or appellant, where any  
5 case remains on the docket longer than three years, for each  
6 additional year or part year, \$20; and

7 (11) For administering funds deposited into a federally  
8 insured interest-bearing account or interest-bearing instrument  
9 pursuant to a court order, \$50, to be collected from the party  
10 making the deposit. A fee collected pursuant to this subdivision  
11 shall be paid into the general county fund.

12 (c) In addition to the foregoing fees, a fee for the actual  
13 amount of the postage and express may be charged and collected for  
14 sending decrees, orders or records that have not been ordered by  
15 the court to be sent by mail or express.

16 (d) The clerk shall tax the following fees for services in a  
17 criminal case against a defendant convicted in such court:

18 (1) In the case of a misdemeanor, \$85; and

19 (2) In the case of a felony, \$105, of which \$10 shall be  
20 deposited in the Courthouse Facilities Improvement Fund created by  
21 section six, article twenty-six, chapter twenty-nine of this code.

22 (e) The clerk of a circuit court shall charge and collect a  
23 fee of \$25 per bond for services rendered by the clerk for

1 processing of criminal bonds and the fee shall be paid at the time  
2 of issuance by the person or entity set forth below:

3       (1) For cash bonds, the fee shall be paid by the person  
4 tendering cash as bond;

5       (2) For recognizance bonds secured by real estate, the fee  
6 shall be paid by the owner of the real estate serving as surety;

7       (3) For recognizance bonds secured by a surety company, the  
8 fee shall be paid by the surety company;

9       (4) For ten-percent recognizance bonds with surety, the fee  
10 shall be paid by the person serving as surety; and

11       (5) For ten percent recognizance bonds without surety, the fee  
12 shall be paid by the person tendering ten percent of the bail  
13 amount.

14       In instances in which the total of the bond is posted by more  
15 than one bond instrument, the above fee shall be collected at the  
16 time of issuance of each bond instrument processed by the clerk and  
17 all fees collected pursuant to this subsection shall be deposited  
18 in the Courthouse Facilities Improvement Fund created by section  
19 six, article twenty-six, chapter twenty-nine of this code. Nothing  
20 in this subsection authorizes the clerk to collect the above fee  
21 from any person for the processing of a personal recognizance bond.

22       (f) The clerk of a circuit court shall charge and collect a  
23 fee of \$10 for services rendered by the clerk for processing of

1 bailpiece and the fee shall be paid by the surety at the time of  
2 issuance. All fees collected pursuant to this subsection shall be  
3 deposited in the Courthouse Facilities Improvement Fund created by  
4 section six, article twenty-six, chapter twenty-nine of this code.

5 (g) No clerk is required to handle or accept for disbursement  
6 any fees, cost or amounts of any other officer or party not payable  
7 into the county treasury except on written order of the court or in  
8 compliance with the provisions of law governing such fees, costs or  
9 accounts.

NOTE: The purpose of this bill is to increase certain filing fees in certain civil actions. The bill establishes new filing fees in certain civil actions. The bill requires that those new and increased fees be deposited in the existing Fund for Civil Legal Services for Low-Income Persons. The bill also provides that a portion be retained by the clerk's office.

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