

COMMITTEE SUBSTITUTE

FOR

**H. B. 2913**

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(BY DELEGATE(S) WHITE AND MARCUM)

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(Originating in the Committee on Finance)

[March 22, 2013]

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

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

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

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

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

1        (a) An erroneous distribution, transfer, allocation,  
2 overpayment or underpayment dedicated, distributed or directed  
3 by 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 state,  
6 under the provisions of this code administered under this article,  
7 or under the provisions of article twenty-two, twenty-two-a,  
8 twenty-two-b, twenty-two-c or twenty-five, chapter twenty-nine  
9 of this code, or any other provision of this code, or any  
10 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

17 has been corrected: *Provided*, That no correction or adjustment  
18 may be made for an erroneous distribution, transfer, allocation,  
19 overpayment or underpayment of moneys that is first discovered  
20 more than three years after the erroneous distribution, transfer,  
21 allocation, overpayment or underpayment of moneys was made,  
22 and no action lies for collection, correction or remediation of the  
23 late discovered erroneous distribution, transfer, allocation,  
24 overpayment or underpayment of the moneys.

25 (b) An agency, governmental subdivision or instrumentality  
26 of this state is not subject to a fine, penalty, assessment or  
27 imposition as a result of, or attributable to, an erroneous  
28 distribution, transfer, allocation, overpayment or underpayment  
29 of moneys.

