

Senate Bill No. 225

(By Senator Kirkendoll)

[Introduced January 8, 2014; referred to the Committee on the
Judiciary; and then to the Committee on Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. FEES AND ALLOWANCES.

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

For the purpose of this section, the word "page" is defined as

1 being a paper or electronic writing of not more than legal size, 8
2 ½" x 14".

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

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

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

19 (3) ~~Ten~~ Twenty dollars for a financing, continuation,
20 termination or other statement or writing permitted to be filed
21 under chapter forty-six of this code. Ten dollars of each
22 recording fee received pursuant to this subdivision shall be

1 deposited in the special revenue account created by paragraph (B),
2 subdivision (4), subsection (c) of this section to provide civil
3 legal services for low-income persons.

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

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

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

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

17 ~~(7)~~ (8) One dollar for each additional page for documents or
18 writings containing more than five pages.

19 For any of the documents admitted to record pursuant to this
20 subsection, if the clerk of the county commission has the
21 technology available to receive these documents in electronic form
22 or other media, the clerk shall set a reasonable fee to record

1 these writings not to exceed the cost for filing paper documents.

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

20 (b) Five dollars for administering any oath other than oaths
21 by officers and employees of the state, political subdivisions of
22 the state or a public or quasi-public entity of the state or a

1 political subdivision of the state, taken in his or her official
2 capacity.

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

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

19 (2) Fifteen dollars of the marriage license fee received
20 pursuant to this subsection shall be paid by the county clerk into
21 the State Treasury for the Family Protection Shelter Support Act in
22 the same manner that license taxes are paid into the Treasury under

1 article twelve, chapter eleven of this code;

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

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

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

15 (B) Five dollars to the credit of the special revenue account,
16 hereby created, designated the "Fund for Civil Legal Services for
17 Low Income Persons," which shall consist of all gifts, grants,
18 bequests, transfers, appropriations or other donations or payments
19 which may be received and administered by the Division of Justice
20 and Community Services from any governmental entity or unit or any
21 person, firm, foundation, or corporation for the purposes of this
22 section, and all interest or other return earned from investment of

1 the fund. Expenditures from the fund shall be made by the Director
2 of the Division of Justice and Community Services and shall be
3 limited to grants to nonprofit agencies which provide civil legal
4 services to low-income persons made at his or her discretion. Any
5 balance in the fund at the end of each fiscal year shall not revert
6 to the General Revenue Fund but shall remain in the fund and be
7 expended as provided by this section.

8 (C) Ten dollars to the credit of the Marriage Education Fund
9 created pursuant to section seven hundred two, article two, chapter
10 forty-eight of this code.

11 (d) (1) One dollar and fifty cents for a copy of any writing or
12 document, if it is not otherwise provided ~~for~~.

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

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

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

19 (e) For copies of any record in electronic form or a medium
20 other than paper, a reasonable fee set by the clerk of the county
21 commission not to exceed the costs associated with document search
22 and duplication.

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

2 (a) The clerk of a circuit court shall charge and collect for
3 services rendered by the clerk the following fees which shall be
4 paid in advance by the parties for whom services are to be
5 rendered:

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

21 (2) For instituting an action for medical professional
22 liability, \$280, of which \$10 shall be deposited in the Courthouse

1 Facilities Improvement Fund created by section six, article
2 twenty-six, chapter twenty-nine of this code;

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

5 (4) For petitioning for the modification of an order involving
6 child custody, child visitation, child support or spousal support,
7 \$85; ~~and~~

8 (5) For petitioning for an expedited modification of a child
9 support order, \$35;

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

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

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

8 (9) For filing any petition or motion in a circuit court to
9 certify a question or questions to the Supreme Court of Appeals or
10 any motion for relief from judgment pursuant to Rule 60(b) of the
11 West Virginia Rules of Civil Procedure, \$100, which shall be
12 deposited in the special revenue account created by paragraph (B),
13 subdivision (4), subsection (c), section ten of this article to
14 provide civil legal services for low-income persons.

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

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

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

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

- 1 (4) For issuing an execution, \$25;
- 2 (5) For issuing or renewing a suggestee execution and serving
3 notice to the debtor by certified mail, \$25;
- 4 (6) For vacation or modification of a suggestee execution, \$1;
- 5 (7) For docketing and issuing an execution on a transcript of
6 judgment from magistrate court, \$3;
- 7 (8) For arranging the papers in a certified question, writ of
8 error, appeal or removal to any other court, \$10, of which \$5 shall
9 be deposited in the Courthouse Facilities Improvement Fund created
10 by section six, article twenty-six, chapter twenty-nine of this
11 code;
- 12 (9) For each subpoena, on the part of either plaintiff or
13 defendant, to be paid by the party requesting the same, \$0.50;
- 14 (10) For additional service, plaintiff or appellant, where any
15 case remains on the docket longer than three years, for each
16 additional year or part year, \$20; and
- 17 (11) For administering funds deposited into a federally
18 insured interest-bearing account or interest-bearing instrument
19 pursuant to a court order, \$50, to be collected from the party
20 making the deposit. A fee collected pursuant to this subdivision
21 shall be paid into the general county fund.
- 22 (c) In addition to the foregoing fees, a fee for the actual

1 amount of the postage and express may be charged and collected for
2 sending decrees, orders or records that have not been ordered by
3 the court to be sent by mail or express.

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

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

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

10 (e) The clerk of a circuit court shall charge and collect a
11 fee of \$25 per bond for services rendered by the clerk for
12 processing of criminal bonds and the fee shall be paid at the time
13 of issuance by the person or entity set forth below:

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

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

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

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

22 (5) For ten percent recognizance bonds without surety, the fee

1 shall be paid by the person tendering ten percent of the bail
2 amount.

3 In instances in which the total of the bond is posted by more
4 than one bond instrument, the above fee shall be collected at the
5 time of issuance of each bond instrument processed by the clerk and
6 all fees collected pursuant to this subsection shall be deposited
7 in the Courthouse Facilities Improvement Fund created by section
8 six, article twenty-six, chapter twenty-nine of this code. Nothing
9 in this subsection authorizes the clerk to collect the above fee
10 from any person for the processing of a personal recognizance bond.

11 (f) The clerk of a circuit court shall charge and collect a
12 fee of \$10 for services rendered by the clerk for processing of
13 bailpiece and the fee shall be paid by the surety at the time of
14 issuance. All fees collected pursuant to this subsection shall be
15 deposited in the Courthouse Facilities Improvement Fund created by
16 section six, article twenty-six, chapter twenty-nine of this code.

17 (g) No clerk is required to handle or accept for disbursement
18 any fees, cost or amounts of any other officer or party not payable
19 into the county treasury except on written order of the court or in
20 compliance with the provisions of law governing such fees, costs or
21 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.