

**H. B. 2847**

(By Delegate Walters)

[Introduced February 20, 2015; referred to the  
Committee on the Judiciary then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §7-5-24 of the Code of West Virginia, 1931, as amended; and to  
amend and reenact §11A-2-2 of said code, all relating to permitting sheriffs to hire outside  
attorneys to assist with collection of taxes; sharing costs.

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

That §7-5-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted;  
and that §11A-2-2 of said code be amended and reenacted, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 5. FISCAL AFFAIRS.**

**§7-5-24. Sheriff may commence civil action without paying fees and costs; fees and costs  
recoverable from defendants after completion of litigation.**

The sheriff will not be required to pay any filing fee, cost, bond or security, as may otherwise  
be required of other civil litigants by provisions of this code, in any action in which the sheriff  
commences the action in his or her official capacity or on behalf of the county government:

1 *Provided*, That where the sheriff or county government prevails in the action and any filing fees,  
 2 costs, bond or security are recovered from the opposing party, the sheriff shall pay therefrom the  
 3 fees, costs, bond or security to the officer who otherwise would have been entitled thereto but for  
 4 the provisions of this section: *Provided, however, That any legal fees and costs not so recovered*  
 5 *from the opposing party shall be paid out of the taxes collected prior to the distribution of the taxes*  
 6 *to the various taxing units.*

7 **CHAPTER 11A. COLLECTION AND ENFORCEMENT OF PROPERTY TAXES.**

8 **ARTICLE 2. DELINQUENCY AND METHODS OF ENFORCING PAYMENT.**

9 **§11A-2-2. Collection by civil action; fees and costs not required of sheriff.**

10 (a) Taxes are hereby declared to be debts owing by the taxpayer, for which he or she ~~shall~~  
 11 ~~be~~ is personally liable. After delinquency, the sheriff may enforce this liability by appropriate action  
 12 in any court of competent jurisdiction. No such action ~~shall~~ may be brought after five years from  
 13 the time the action accrued.

14 (b) In any such action, the sheriff ~~shall be~~ is permitted to prosecute the same without paying  
 15 fees or costs, and without providing bond or security, as may otherwise be required of civil litigants  
 16 by the provisions of this code, and ~~shall have~~ has all services and process, including the services of  
 17 witnesses, without paying therefor.

18 (c) The sheriff is permitted to hire an attorney to prosecute the action: *Provided, That any*  
 19 *attorney hired by the sheriff shall be paid an hourly rate and not by a percentage of the taxes*  
 20 *collected.*

21 (d) *Provided, That* The sheriff shall maintain for each action for the recovery of delinquent  
 22 taxes records sufficient to demonstrate the total fees and costs paid and that would have been paid

1 but for the authority provided herein to seek recovery without such payment: *Provided, ~~however,~~*  
2 That where the sheriff recovers delinquent taxes in or as the result of such action, whether by way  
3 of settlement or judgment, such fees and costs as above required to be recorded shall be recoverable  
4 from the opposite party and upon receipt of any recovery, the sheriff shall pay from the amount  
5 recovered such fees or costs to the officer who otherwise would have been entitled thereto but for  
6 the provisions of this section: *Provided ~~further, however,~~* That the fees and costs shall be paid prior  
7 to payment to the various taxing units of the balance of the recovered taxes: ~~And~~ *Provided further,*  
8 That the payment to the various taxing units shall be prorated on the basis of the total amount of  
9 taxes due them.

10 (e) Any attorney fees or other costs associated with the collection of taxes, not heretofore  
11 provided in subsection (d) above, shall be paid from the taxes collected prior to the distribution to  
12 the various taxing units.

NOTE: The purpose of this bill is to permit sheriffs to hire outside attorneys to collect taxes and to share costs.

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