

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4681

FISCAL
NOTE

BY DELEGATES MANCHIN, MILEY, MORGAN,
FLEISCHAUER, REYNOLDS, CAPUTO, BOGGS, PERRY,
PERDUE, BATES, SKINNER AND SPONAUGLE

[Introduced February 23, 2016; Referred
to the Committee on Roads and Transportation then
Finance.]

1 A BILL to amend and reenact §11-15-8 and §11-15-30 of the Code of West Virginia, 1931, as
 2 amended, all relating to taxing attorneys legal service fees as service taxes; and
 3 dedicating proceeds to the State Road Fund.

Be it enacted by the Legislature of West Virginia:

1 That §11-15-8 and §11-15-30 of the Code of West Virginia, 1931, as amended, be
 2 amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMER SALES AND SERVICE TAX.

§11-15-8. Furnishing of services included; exceptions.

1 The provisions of this article apply not only to selling tangible personal property and
 2 custom software, but also to the furnishing of all services, except professional and personal
 3 services, and except those services furnished by businesses subject to the control of the Public
 4 Service Commission when the service or the manner in which it is delivered is subject to regulation
 5 by the Public Service Commission: Provided, That any fee collected by a licensed attorney for
 6 legal services is considered a service subject to taxation pursuant to this section and shall be
 7 appropriated pursuant to subsection (e), section thirty of this article.

§11-15-30. Proceeds of tax; appropriation of certain revenues.

1 (a) The proceeds of the tax imposed by this article shall be deposited in the General
 2 Revenue Fund of the state except as otherwise expressly provided in this article.

3 (b) *School Major Improvement Fund.* -- After the payment or commitment of the proceeds
 4 or collections of this tax for the purposes set forth in section sixteen of this article, on the first day
 5 of each month, there shall be dedicated monthly from the collections of this tax, the amount of
 6 \$416,667 and the amount dedicated shall be deposited on a monthly basis into the School Major
 7 Improvement Fund created pursuant to section six, article nine-d, chapter eighteen of this code:
 8 *Provided, That for fiscal year 2016, the amount so dedicated and deposited annually under this*
 9 *subdivision is reduced by \$2,000,004, and the amount so dedicated and deposited monthly is*
 10 *reduced to \$250,000 for fiscal year 2016. This reduction shall cease for fiscal years beginning*

11 after June 30, 2016.

12 (c) *School Construction Fund*. -- After the payment or commitment of the proceeds or
13 collections of this tax for the purposes set forth in section sixteen of this article:

14 (1) On the first day of each month, there shall be dedicated monthly from the collections
15 of this tax the amount of \$1,416,667 and the amount dedicated shall be deposited into the School
16 Construction Fund created pursuant to section six, article nine-d, chapter eighteen of this code.

17 (2) Except as provided in subdivision (3) of this subsection, effective July 1, 1998, there
18 shall be dedicated from the collections of this tax an amount equal to any annual difference that
19 may occur between the debt service payment for the 1997 fiscal year for school improvement
20 bonds issued under the Better School Building Amendment under the provisions of article nine-c,
21 chapter eighteen of this code and the amount of funds required for debt service on these school
22 improvement bonds in any current fiscal year thereafter. This annual difference shall be prorated
23 monthly, added to the monthly deposit in subdivision (1) of this subsection and deposited into the
24 School Construction Fund created pursuant to section six, article nine-d, chapter eighteen of this
25 code.

26 (3) After June 30, 2015, the provisions of subdivision (2) of this subsection shall have no
27 force or effect. After June 30, 2015, there shall be dedicated from the collections of this tax the
28 amount of \$27,216,996 annually. This amount shall be prorated monthly and added to the monthly
29 deposit in subdivision (1) of this subsection and deposited into the School Construction Fund
30 created pursuant to section six, article nine-d, chapter eighteen of this code: *Provided*, That for
31 fiscal year 2016, the amount so dedicated annually under this subdivision is reduced by \$6 million.
32 This reduction shall cease for fiscal years beginning after June 30, 2016.

33 (d) *Prepaid wireless calling service*. -- The proceeds or collections of this tax from the sale
34 of prepaid wireless service are dedicated as follows:

35 (1) The tax imposed by this article upon the sale of prepaid wireless calling service is in
36 lieu of the wireless enhanced 911 fee imposed by section six-b, article six, chapter twenty-four of

37 this code.

38 (2) Within thirty days following the end of each calendar month, the Tax Commissioner
39 shall remit to the Public Service Commission the proceeds of the tax imposed by this article upon
40 the sale of prepaid wireless calling service in the preceding month, determined as follows: For
41 purposes of determining the amount of those monthly proceeds, the Tax Commissioner shall use
42 an amount equal to one twelfth of the wireless enhanced 911 fees collected from prepaid wireless
43 calling service under section six-b, article six, chapter twenty-four of this code during the period
44 beginning on July 1, 2007, and ending on June 30, 2008. Beginning on July 1, 2009, the Tax
45 Commissioner shall adjust this amount annually by an amount proportionate to the increase or
46 decrease in the enhanced wireless 911 fees paid to the Public Service Commission under said
47 section during the previous twelve months. The Public Service Commission shall receive, deposit
48 and disburse the proceeds in the manner prescribed in said section.

49 (e) Notwithstanding any other provision of this code to the contrary, the service tax
50 collected from licensed attorneys pursuant to section eight of this article, for the fiscal year
51 beginning on July 1, 2016, shall be deposited to the State Road Fund established in section one,
52 article three, chapter seventeen of this code.

NOTE: The purpose of this bill is to tax attorney's legal service fees as service taxes, and dedicate the proceeds to the State Road Fund.

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