

H. B. 4567

(By Delegate Skinner)

[Introduced February 17, 2014; referred to the
Committee on Political Subdivisions then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-8-5, §11-8-6b and §11-8-6c of the
Code of West Virginia, 1931, as amended, all relating to
establishing a new class of property on utility rights-of-
ways and easements for taxation purposes; naming that new
class as Class V; giving county commissions the option of
adopting that Class V to their respective tax rolls; and
establishing certain tax rates for Class V property.

Be it enacted by the Legislature of West Virginia:

That §11-8-5, §11-8-6b and §11-8-6c of the Code of West
Virginia, 1931, as amended, be amended and reenacted, all to read
as follows:

ARTICLE 8. LEVIES.

§11-8-5. Classification of property for levy purposes.

For the purpose of levies, property shall be classified as

1 follows:

2 Class I. All tangible personal property employed exclusively
3 in agriculture, including horticulture and grazing;

4 All products of agriculture (including livestock) while owned
5 by the producer;

6 All notes, bonds, bills and accounts receivable, stocks and
7 any other intangible personal property;

8 Class II. All property owned, used and occupied by the owner
9 exclusively for residential purposes;

10 All farms, including land used for horticulture and grazing,
11 occupied and cultivated by their owners or bona fide tenants;

12 Class III. All real and personal property situated outside of
13 municipalities, exclusive of Classes I and II;

14 Class IV. All real and personal property situated inside of
15 municipalities, exclusive of Classes I and II;

16 Class V. All rights-of-ways and easements held or owned by a
17 public utility. However, county commissions have the option of
18 whether or not to adopt this classification of property.

19 **§11-8-6b. Maximum levies on each classification by county courts**
20 **commissions; order of levies.**

21 County ~~courts~~ commissions are hereby authorized to lay not in
22 excess of the following maximum levies, for the purposes specified
23 and in the following order:

24 (1) With respect to the county as a whole for the payment of

1 (a) interest and sinking fund requirements for bonded indebtedness
2 incurred prior to the adoption of the Tax Limitation Amendment; and
3 (to the extent not so required), (b) other legally incurred
4 contractual indebtedness, not bonded, if any, incurred prior to the
5 adoption of the Tax Limitation Amendment, of the county as follows:
6 On Class I property, twenty-five one hundredths of 1¢; on Class II
7 property, one half of 1¢; and on Classes III, ~~and~~ IV and V
8 property, 1¢.

9 (2) With respect to a magisterial or special taxing district
10 for which the county ~~court~~ commission is required to lay the levy,
11 for the payment of (a) interest and sinking fund requirements for
12 bonded indebtedness, incurred prior to the adoption of the Tax
13 Limitation Amendment; and (to the extent not so required), (b)
14 other legally incurred contractual indebtedness not bonded, if any,
15 incurred prior to the adoption of the Tax Limitation Amendment, as
16 follows: On Class I property, two and fifteen one hundredths
17 cents; on Class II property, four and three tenths cents; and on
18 Classes III, ~~and~~ IV and V property, eight and six tenths cents.

19 (3) For general county current expense as follows: On Class
20 I property, eleven and nine tenths cents; on Class II property,
21 twenty-three and eight tenths cents; and on Classes III, ~~and~~ IV and
22 V property, forty-seven and six tenths cents. But in a county
23 where the total assessed valuation of all classes of property is
24 less than \$6 million, the county ~~court~~ commission may, with the

1 prior written approval of the Tax Commissioner, exceed the rates of
2 levy for general county current expense by not more than twenty-
3 five percent of the rates specified: *Provided, however,* That if
4 the rates of levy under paragraph (3) of this section are not
5 required, in whole or in part, for the purpose for which they are
6 allocated, the county ~~court~~ commission may, with the prior written
7 approval of the State Tax Commissioner, surrender to the county
8 board of education such unused parts of the authorized rates of
9 levy as provided herein.

10 **§11-8-6c. Maximum levies on each classification by county boards**
11 **of education; order of levy; exceeding levy for**
12 **school bond issues.**

13 County boards of education are hereby authorized to lay not in
14 excess of the following maximum levies, for the purposes specified
15 and in the following order:

16 (1) With respect to a magisterial, independent or other school
17 district existing in a county prior to May 22, 1933, or any special
18 taxing district for which the board of education is required to lay
19 the levy, for the payment of (a) interest and sinking fund
20 requirements for bonded indebtedness incurred prior to the adoption
21 of the Tax Limitation Amendment; and (to the extent not so
22 required), (b) other legally incurred contractual indebtedness not
23 bonded, if any, incurred prior to the adoption of the Tax

1 Limitation Amendment as follows: On Class I property, thirty-five
2 one hundredths of 1¢; on Class II property, seven tenths of 1¢; and
3 on Classes III, ~~and~~ IV and V property, one and four tenths cents.

4 (2) For either or both of (a) the permanent improvement fund,
5 and (b) the payment of interest and sinking fund requirements for
6 bonded indebtedness incurred subsequent to the adoption of the Tax
7 Limitation Amendment, as follows: On Class I property, one and
8 five tenths cents; on Class II property, 3¢; and on Classes III,
9 ~~and~~ IV and V property, 6¢.

10 (3) For the general current expenses of schools as follows:
11 On Class I property, twenty-one and one tenth cents; on Class II
12 property, forty-two and two tenths cents; and on Classes III, ~~AND~~
13 IV and V property, eighty-four and four tenths cents. But if the
14 Tax Commissioner has approved the levy of an additional amount for
15 the general current expenses of the county as authorized by section
16 six-b, subsection three, the amount of the levy authorized for
17 boards of education by this subsection shall be reduced by the Tax
18 Commissioner to that extent.

19 If the rates of levy under paragraph (2) above are not
20 required, in whole or in part, for the purposes for which they are
21 allocated by this section, the county board of education may, with
22 the prior written approval of the state board of school finance,
23 created by section three, article nine-b, chapter eighteen of the
24 code, as amended, lay such rates of levy or portion thereof not so

1 required, for the general current expenses of schools: *Provided,*
2 *however,* That if the rates of levy under paragraph (3) of this
3 section are not sufficient for the purposes for which they are
4 allocated, the county board of education may, with the prior
5 written approval of the State Tax Commissioner, lay such additional
6 rates of levy, or portion thereof, as are surrendered by the county
7 ~~court~~ commission under paragraph (3), section six-b of this
8 article: *Provided further,* That a county board of education shall
9 be required to levy outside the levy rates hereinabove provided
10 sufficient to pay the principal and interest requirements on bonds
11 now or hereafter issued by any school district not exceeding in the
12 aggregate five per centum of the assessed value of all taxable
13 property in the county school district, to be ascertained by the
14 last assessment for state and county taxes, previous to the
15 incurring of such indebtedness, in the manner provided by the
16 "Better Schools Amendment," as ratified.

NOTE: The purpose of this bill is to establish a new class of property on utility rights of ways and easements for taxation purposes. The bill names that new class as Class V and gives county commissions the option of adopting that Class V to their respective tax rolls. The bill establishes certain tax rates for Class V property.

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