

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 4532

FISCAL  
NOTE

BY DELEGATE SKINNER

[Introduced February 12, 2016; Referred  
to the Committee on Political Subdivisions then  
Finance.]

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

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

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

**ARTICLE 8. LEVIES.**

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

1 For the purpose of levies, property shall be classified as follows:

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

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

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

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

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

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

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

15 Class V. All right-of-ways and easements held or owned by a public utility. However,

16 county commissions have the option of whether or not to adopt this classification of property.

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

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

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

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

16 (3) For general county current expense as follows: On Class I property, eleven and nine  
17 tenths cents; on Class II property, twenty-three and eight tenths cents; and on Classes III, ~~and IV~~  
18 and V property, forty-seven and six tenths cents. But in a county where the total assessed  
19 valuation of all classes of property is less than \$6 million, the county ~~court~~ commission may, with  
20 the prior written approval of the Tax Commissioner, exceed the rates of levy for general county  
21 current expense by not more than twenty-five percent of the rates specified: *Provided, however,*  
22 That if the rates of levy under paragraph (3) of this section are not required in whole or in part for  
23 the purpose for which they are allocated, the county ~~court~~ commission may, with the prior written  
24 approval of the State Tax Commissioner, surrender to the county board of education such unused

25 parts of the authorized rates of levy as provided herein.

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

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

3 (1) With respect to a magisterial, independent or other school district existing in a county  
4 prior to May 22, 1933, or any special taxing district for which the board of education is required to  
5 lay the levy, for the payment of: (a) Interest and sinking fund requirements for bonded  
6 indebtedness incurred prior to the adoption of the Tax Limitation Amendment; and (to the extent  
7 not so required); (b) other legally incurred contractual indebtedness not bonded, if any, incurred  
8 prior to the adoption of the Tax Limitation Amendment as follows: On Class I property, thirty-five  
9 one hundredths of 1¢; on Class II property, seven tenths of 1¢; and on Classes III, ~~and IV~~ and V  
10 property, one and four tenths cents.

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

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

21 If the rates of levy under paragraph (2) above are not required, in whole or in part, for the  
22 purposes for which they are allocated by this section, the county board of education may, with the  
23 prior written approval of the state board of school finance, created by section three, article nine-

24 b, chapter eighteen of the code, as amended, lay such rates of levy or portion thereof not so  
25 required, for the general current expenses of schools: *Provided, however,* That if the rates of levy  
26 under paragraph (3) of this section are not sufficient for the purposes for which they are allocated,  
27 the county board of education may, with the prior written approval of the State Tax Commissioner,  
28 lay such additional rates of levy, or portion thereof, as are surrendered by the county ~~court~~  
29 commission under paragraph (3), section six-b of this article: *Provided further,* That a county  
30 board of education shall be required to levy outside the levy rates hereinabove provided sufficient  
31 to pay the principal and interest requirements on bonds now or hereafter issued by any school  
32 district not exceeding in the aggregate five per centum of the assessed value of all taxable  
33 property in the county school district, to be ascertained by the last assessment for state and  
34 county taxes, previous to the incurring of such indebtedness, in the manner provided by the  
35 "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 a heading or the present law and underscoring indicates new language that would be added.