

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 3058**

5 (By Delegates White, Ireland, Craig, Phillips, R.,  
6 Anderson, Miley, and Morgan)

7 (Originating in the Committee on Finance)

8 [March 29, 2013]

9  
10  
11 A BILL to amend and reenact §11-1C-5 of the Code of West Virginia,  
12 1931, as amended; and to amend said code by adding thereto two  
13 new sections, designated §11-1C-5c and §11-1C-5d, all relating  
14 to the valuation of motor vehicles for purposes of ad valorem  
15 property taxes; requiring antique motor vehicles not used as  
16 a primary vehicle to be assigned an appraised value of up to  
17 \$5,000; and providing that a reconciliation excise tax is  
18 imposed on the sale of an antique motor vehicle to recapture  
19 revenue from the sale.

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

21 That §11-1C-5 the Code of West Virginia, 1931, as amended, be  
22 amended and reenacted; and that said code be amended by adding  
23 thereto two new sections, designated §11-1C-5c and §11-1C-5d, all  
24 to read as follows:

25 **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

26 **§11-1C-5. Tax Commissioner powers and duties.**

1 (a) In addition to the powers and duties of the Tax  
2 Commissioner in other provisions of this article and this code, the  
3 Tax Commissioner shall: ~~have the power and duty to~~

4 (1) Perform ~~such~~ duties and exercise ~~such~~ powers as may be  
5 necessary to accomplish the purposes of this article;

6 (2) Determine the methods of valuation for both real and  
7 personal property in accordance with the following:

8 (A) As to personal property, the Tax Commissioner shall  
9 provide a method to appraise each major specie of personal property  
10 in the state so that all such items of personal property are valued  
11 in the same manner no matter where situated in the state, shall  
12 transmit these methods to each county assessor who shall use these  
13 methods to value the various species of personal property. The Tax  
14 Commissioner shall periodically conduct ~~such~~ studies ~~as are~~  
15 necessary to determine that ~~such~~ those methods are being followed.

16 ~~Such~~ The method shall be in accordance with the provisions of  
17 article five of this chapter: *Provided*, That notwithstanding any  
18 other provision of this code to the contrary, ~~the several~~ all  
19 county assessors shall appraise motor vehicles as follows: The  
20 State Tax Commissioner shall annually compile a schedule of  
21 automobile values based upon the lowest values shown in a  
22 nationally accepted used car guide, which ~~said~~ schedule shall be  
23 furnished to each assessor and shall be used by ~~the several~~ all  
24 county assessors to determine the assessed value for all motor  
25 vehicles in an amount equal to sixty percent of ~~said~~ the lowest  
26 values.

1 (B) As to managed timberland as defined in section two of this  
2 article, the Tax Commissioner shall provide a method to appraise  
3 ~~such that~~ property in the state so that ~~all such property~~ it is  
4 valued in the same manner no matter where it is situated in the  
5 state, which shall be a valuation based on its use and productive  
6 potential as managed timberland, which may be accorded special  
7 valuation as forestlands as authorized by section fifty-three,  
8 article six of the Constitution of West Virginia: *Provided*, That  
9 timberland that does not qualify for identification as managed  
10 timberland shall be valued at market value: *Provided, however*,  
11 That the Tax Commissioner may not implement any rules ~~or~~  
12 ~~regulations~~ in title one hundred ten, which relate to valuation or  
13 classification of timberland: *Provided further*, That on or before  
14 October 1, 1990, the Tax Commissioner shall, in accordance with  
15 chapter twenty-nine-a of this code, promulgate new rules relating  
16 to the valuation and classification of timberland.

17 (C) As to farmland used, occupied and cultivated by an owner  
18 or bona fide tenant, the Tax Commissioner shall provide a method to  
19 appraise ~~such that~~ property in the state so that ~~all such property~~  
20 it is valued in the same manner no matter where it is situated in  
21 the state, which valuation shall be arrived at according to the  
22 fair and reasonable value of the property for the purpose for which  
23 it is actually used regardless of what the value of the property  
24 would be if used for some other purpose, in accordance with section  
25 one, article three of this chapter and as authorized by subsection  
26 B, section one-b, article X of the Constitution of West Virginia.

1 (D) As to public utility property, the Tax Commissioner shall  
2 prescribe appropriate methods for the appraisal of the various  
3 types of property subject to taxation as public utilities and the  
4 types of property which are to be included in the operating  
5 property of a public utility and thereby not subject to taxation by  
6 the county assessor. Only parcels or other property, or portions  
7 thereof, which are an integral part of the public utility's  
8 function as a utility ~~shall~~ may be included as operating property  
9 and assessed by the board of public works under provisions of  
10 article six of this chapter;

11 (3) Evaluate the performance of each assessor based upon the  
12 criteria established by the commission and each county's approved  
13 plan and take appropriate measures to require any assessor who does  
14 not meet these criteria or adequately carry out the provisions of  
15 the plan to correct any deficiencies. ~~Such~~ The evaluation shall  
16 include the periodic review of the progress of each assessor in  
17 conducting the appraisals required in sections seven and nine of  
18 this article and in following the approved valuation plan. If the  
19 Tax Commissioner determines that an assessor has substantially  
20 failed to perform the duties required by ~~said~~ those sections, the  
21 Tax Commissioner shall take all necessary steps, including the  
22 appointment of one or more special assessors in accordance with the  
23 provisions of section one, article three of this chapter, or  
24 ~~utilize such~~ use other authority ~~as~~ the commissioner has over  
25 county assessors pursuant to other provisions of this code as ~~may~~  
26 ~~be~~ necessary to complete the tasks and duties imposed by this

1 article: *Provided*, That a writ of mandamus ~~shall be~~ is the  
2 appropriate remedy if the Tax Commissioner fails to perform his or  
3 her statutory duty provided ~~for~~ in section five, article one of  
4 this chapter;

5 (4) Submit to the Legislature, on or before February 15, of  
6 each year, a preliminary statewide aggregate tax revenue projection  
7 and other information ~~which shall~~ to assist the Legislature in its  
8 deliberations regarding county board of education levy rates  
9 pursuant to section six-f, article eight of this chapter, which  
10 information shall include any amount of reduction required by ~~said~~  
11 section six-f;

12 (5) Maintain the valuations each year by making or causing to  
13 be made ~~such~~ surveys, examinations, audits and investigations of  
14 the value of the several classes of property in each county which  
15 should be listed and taxed under the several classifications; and

16 (6) Establish by uniform rules a procedure for the sale of  
17 computer generated material and appraisal manuals. Any funds  
18 received as a result of the sale of such reproductions shall be  
19 deposited to the appropriate account from which the payment for  
20 reproduction is made.

21 (b) The Tax Commissioner may adopt any ~~regulation~~ rule adopted  
22 prior to January 1, 1990, pursuant to article one-a of this  
23 chapter, which adoption ~~shall not constitute~~ is not an  
24 implementation of the statewide mass reappraisal of property. ~~Such~~  
25 The adoption, including context modifications made necessary by the  
26 enactment of this article, shall occur on or before July 1, 1991,

1 through inclusion in the plan required by section ten of this  
2 article or inclusion in the minute record of the valuation  
3 commission. Upon the adoption of any such ~~regulations~~ rule, any  
4 modification or repeal of ~~such regulation~~ the rule shall be in  
5 accordance with the provisions of article three, chapter twenty-  
6 nine-a of this code.

7 **§11-1C-5c. Antique motor vehicle valuation for personal property**  
8 **tax purposes.**

9 Notwithstanding any other provision of this code to the  
10 contrary, any vehicle that is registered as an antique motor  
11 vehicle as defined in section three-a, article ten, chapter  
12 seventeen-a of this code and that is not used for general  
13 transportation shall be assigned an appraised value of up to \$5,000  
14 for purposes of ad valorem property taxes.

15 **§11-1C-5d. Reconciliation excise tax.**

16 (a) Upon the sale of any antique motor vehicle which is valued  
17 in accordance with section five-c of this article in the property  
18 tax year preceding the property tax year when the antique motor  
19 vehicle was sold, the transferor shall pay to the local levying  
20 bodies to which the tax was paid or should have been paid in the  
21 preceding property tax year, an excise tax in the year when the  
22 antique motor vehicle is sold in an amount equal to:

23 (1) Sixty percent of the gross proceeds multiplied by:

24 (A) The combined regular property tax levy rate for the  
25 property tax year when the antique motor vehicle was sold;

1 (B) Combined with all applicable special property tax levy  
2 rates for the property tax year when the antique motor vehicle was  
3 sold, minus:

4 (2) The amount of the property tax paid on the motor vehicle  
5 for the property tax year in which the antique motor vehicle was  
6 sold.

7 (b) For purposes of this section, "gross proceeds" means the  
8 amount received in money, credits, property or other consideration  
9 from any transfer of the possession or ownership of the antique  
10 motor vehicle for a consideration, without deduction on account of  
11 the cost of property sold, amounts paid for interest or discounts  
12 or other expenses whatsoever.

13 (c) That payments made to any county commission, county school  
14 board or municipality pursuant to this section shall be distributed  
15 as if the payments resulted from ad valorem property taxation.

16 (d) Failure to pay tax.

17 A transferor who fails to pay the tax authorized by this  
18 section, is personally liable for the amount of tax not paid.

19 (e) General procedure and administration.

20 (1) The county commission may promulgate, by ordinance, order,  
21 rule or regulation, administrative procedures for the assessment,  
22 collection and refund of the tax authorized by this article. The  
23 sheriff of the county is the county's agent for administration and  
24 collection of the tax and may distrain property and initiate civil  
25 suits for collection of this tax. The county commission may  
26 promulgate regulations and return forms necessary or desirable for

1 the administration and collection of the tax.

2       (2) The county assessor shall issue tax returns and receive

3 tax returns for this tax.