

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3058**

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

6 (Originating in the Committee on Finance)

7 [March 29, 2013]

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

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

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

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

25 **§11-1C-5. Tax Commissioner powers and duties.**

26 (a) In addition to the powers and duties of the Tax

1 Commissioner in other provisions of this article and this code, the
2 Tax Commissioner shall: ~~have the power and duty to~~

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

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

7 (A) As to personal property, the Tax Commissioner shall
8 provide a method to appraise each major specie of personal property
9 in the state so that all such items of personal property are valued
10 in the same manner no matter where situated in the state, shall
11 transmit these methods to each county assessor who shall use these
12 methods to value the various species of personal property. The Tax
13 Commissioner shall periodically conduct ~~such~~ studies ~~as are~~
14 necessary to determine that ~~such~~ those methods are being followed.
15 ~~Such~~ The method shall be in accordance with the provisions of
16 article five of this chapter: *Provided*, That notwithstanding any
17 other provision of this code to the contrary, ~~the several~~ all
18 county assessors shall appraise motor vehicles as follows: The
19 State Tax Commissioner shall annually compile a schedule of
20 automobile values based upon the lowest values shown in a
21 nationally accepted used car guide, which ~~said~~ schedule shall be
22 furnished to each assessor and shall be used by ~~the several~~ all
23 county assessors to determine the assessed value for all motor
24 vehicles in an amount equal to sixty percent of ~~said~~ the lowest
25 values or sixty percent of \$700, whichever is higher.

26 (B) As to managed timberland as defined in section two of this

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

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

26 (D) As to public utility property, the Tax Commissioner shall

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

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

1 appropriate remedy if the Tax Commissioner fails to perform his or
2 her statutory duty provided ~~for~~ in section five, article one of
3 this chapter;

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

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

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

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

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

6 **§11-1C-5c. Antique motor vehicle valuation for personal property**
7 **tax purposes.**

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

14 **§11-1C-5d. Reconciliation excise tax.**

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

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

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

25 (B) Combined with all applicable special property tax levy

1 rates for the property tax year when the antique motor vehicle was
2 sold, minus:

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

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

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

15 (d) Failure to pay tax.

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

18 (e) General procedure and administration.

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

1 (2) The county assessor shall issue tax returns and receive
2 tax returns for this tax.