

# ENGROSSED

COMMITTEE SUBSTITUTE

FOR

## H. B. 3058

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(BY DELEGATE(S) WHITE, IRELAND, CRAIG, PHILLIPS, R.,  
ANDERSON, MILEY, AND MORGAN)

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(Originating in the Committee on Finance)

[March 29, 2013]

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

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

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

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

**§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,  
3       the 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  
10      property in the state so that all such items of personal property  
11      are valued in the same manner no matter where situated in the  
12      state, shall transmit these methods to each county assessor who  
13      shall use these methods to value the various species of personal

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

27 (B) As to managed timberland as defined in section two of  
 28 this article, the Tax Commissioner shall provide a method to  
 29 appraise ~~such that~~ property in the state so that ~~all such property~~  
 30 it is valued in the same manner no matter where it is situated in  
 31 the state, which shall be a valuation based on its use and  
 32 productive potential as managed timberland, which may be  
 33 accorded special valuation as forestlands as authorized by

34 section fifty-three, article six of the Constitution of West  
35 Virginia: *Provided*, That timberland that does not qualify for  
36 identification as managed timberland shall be valued at market  
37 value: *Provided, however*, That the Tax Commissioner may not  
38 implement any rules ~~or regulations~~ in title one hundred ten,  
39 which relate to valuation or classification of timberland:  
40 *Provided further*, That on or before October 1, 1990, the Tax  
41 Commissioner shall, in accordance with chapter twenty-nine-a  
42 of this code, promulgate new rules relating to the valuation and  
43 classification of timberland.

44 (C) As to farmland used, occupied and cultivated by an  
45 owner or bona fide tenant, the Tax Commissioner shall provide  
46 a method to appraise ~~such~~ that property in the state so that ~~at~~  
47 ~~such property~~ it is valued in the same manner no matter where it  
48 is situated in the state, which valuation shall be arrived at  
49 according to the fair and reasonable value of the property for the  
50 purpose for which it is actually used regardless of what the value  
51 of the property would be if used for some other purpose, in  
52 accordance with section one, article three of this chapter and as  
53 authorized by subsection B, section one-b, article X of the  
54 Constitution of West Virginia.

55 (D) As to public utility property, the Tax Commissioner  
56 shall prescribe appropriate methods for the appraisal of the  
57 various types of property subject to taxation as public utilities  
58 and the types of property which are to be included in the  
59 operating property of a public utility and thereby not subject to  
60 taxation by the county assessor. Only parcels or other property,  
61 or portions thereof, which are an integral part of the public  
62 utility's function as a utility ~~shall~~ may be included as operating  
63 property and assessed by the board of public works under  
64 provisions of article six of this chapter;

65 (3) Evaluate the performance of each assessor based upon  
66 the criteria established by the commission and each county's  
67 approved plan and take appropriate measures to require any  
68 assessor who does not meet these criteria or adequately carry out  
69 the provisions of the plan to correct any deficiencies. ~~Such~~ The  
70 evaluation shall include the periodic review of the progress of  
71 each assessor in conducting the appraisals required in sections  
72 seven and nine of this article and in following the approved  
73 valuation plan. If the Tax Commissioner determines that an  
74 assessor has substantially failed to perform the duties required

75 by ~~said~~ those sections, the Tax Commissioner shall take all  
76 necessary steps, including the appointment of one or more  
77 special assessors in accordance with the provisions of section  
78 one, article three of this chapter, or ~~utilize such~~ use other  
79 authority ~~as~~ the commissioner has over county assessors  
80 pursuant to other provisions of this code as ~~may be~~ necessary to  
81 complete the tasks and duties imposed by this article: *Provided*,  
82 That a writ of mandamus ~~shall be~~ is the appropriate remedy if  
83 the Tax Commissioner fails to perform his or her statutory duty  
84 provided ~~for~~ in section five, article one of this chapter;

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

92 (5) Maintain the valuations each year by making or causing  
93 to be made ~~such~~ surveys, examinations, audits and investigations  
94 of the value of the several classes of property in each county

95 which should be listed and taxed under the several  
96 classifications; and

97 (6) Establish by uniform rules a procedure for the sale of  
98 computer generated material and appraisal manuals. Any funds  
99 received as a result of the sale of such reproductions shall be  
100 deposited to the appropriate account from which the payment for  
101 reproduction is made.

102 (b) The Tax Commissioner may adopt any ~~regulation~~ rule  
103 adopted prior to January 1, 1990, pursuant to article one-a of this  
104 chapter, which adoption ~~shall not constitute~~ is not an  
105 implementation of the statewide mass reappraisal of property.  
106 ~~Such~~ The adoption, including context modifications made  
107 necessary by the enactment of this article, shall occur on or  
108 before July 1, 1991, through inclusion in the plan required by  
109 section ten of this article or inclusion in the minute record of the  
110 valuation commission. Upon the adoption of any such  
111 ~~regulations~~ rule, any modification or repeal of ~~such regulation~~  
112 the rule shall be in accordance with the provisions of article  
113 three, chapter twenty-nine-a of this code.

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

1        Notwithstanding any other provision of this code to the  
2        contrary, any vehicle that is registered as an antique motor  
3        vehicle as defined in section three-a, article ten, chapter  
4        seventeen-a of this code and that is not used for general  
5        transportation shall be assigned an appraised value of up to  
6        \$5,000 for purposes of ad valorem property taxes.

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

1        (a) Upon the sale of any antique motor vehicle which is  
2        valued in accordance with section five-c of this article in the  
3        property tax year preceding the property tax year when the  
4        antique motor vehicle was sold, the transferor shall pay to the  
5        local levying bodies to which the tax was paid or should have  
6        been paid in the preceding property tax year, an excise tax in the  
7        year when the antique motor vehicle is sold in an amount equal  
8        to:

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

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



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

15 (2) The amount of the property tax paid on the motor vehicle  
16 for the property tax year in which the antique motor vehicle was  
17 sold.

18 (b) For purposes of this section, “gross proceeds” means the  
19 amount received in money, credits, property or other  
20 consideration from any transfer of the possession or ownership  
21 of the antique motor vehicle for a consideration, without  
22 deduction on account of the cost of property sold, amounts paid  
23 for interest or discounts or other expenses whatsoever.

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

28 (d) *Failure to pay tax.*

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

31 (e) *General procedure and administration.*

32       (1) The county commission may promulgate, by ordinance,  
33       order, rule or regulation, administrative procedures for the  
34       assessment, collection and refund of the tax authorized by this  
35       article. The sheriff of the county is the county's agent for  
36       administration and collection of the tax and may distrain  
37       property and initiate civil suits for collection of this tax. The  
38       county commission may promulgate regulations and return  
39       forms necessary or desirable for the administration and  
40       collection of the tax.

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



