

H. B. 3058

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

[Introduced March 22, 2013; referred to the
Committee on Roads and Transportation then Finance.]

**FISCAL
NOTE**

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 \$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, 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

1 vehicles in an amount equal to sixty percent of ~~said~~ the lowest
2 values or sixty percent of \$700, whichever is higher.

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

19 (C) As to farmland used, occupied and cultivated by an owner
20 or bona fide tenant, the Tax Commissioner shall provide a method to
21 appraise ~~such that~~ property in the state so that ~~all such property~~
22 it is valued in the same manner no matter where it is situated in
23 the state, which valuation shall be arrived at according to the
24 fair and reasonable value of the property for the purpose for which

1 it is actually used regardless of what the value of the property
2 would be if used for some other purpose, in accordance with section
3 one, article three of this chapter and as authorized by subsection
4 B, section one-b, article X of the Constitution of West Virginia.

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

15 (3) Evaluate the performance of each assessor based upon the
16 criteria established by the commission and each county's approved
17 plan and take appropriate measures to require any assessor who does
18 not meet these criteria or adequately carry out the provisions of
19 the plan to correct any deficiencies. ~~Such~~ The evaluation shall
20 include the periodic review of the progress of each assessor in
21 conducting the appraisals required in sections seven and nine of
22 this article and in following the approved valuation plan. If the
23 Tax Commissioner determines that an assessor has substantially
24 failed to perform the duties required by ~~said~~ those sections, the

1 Tax Commissioner shall take all necessary steps, including the
2 appointment of one or more special assessors in accordance with the
3 provisions of section one, article three of this chapter, or
4 ~~utilize such~~ use other authority ~~as~~ the commissioner has over
5 county assessors pursuant to other provisions of this code as ~~may~~
6 ~~be~~ necessary to complete the tasks and duties imposed by this
7 article: *Provided*, That a writ of mandamus ~~shall be~~ is the
8 appropriate remedy if the Tax Commissioner fails to perform his or
9 her statutory duty provided ~~for~~ in section five, article one of
10 this chapter;

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

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

22 (6) Establish by uniform rules a procedure for the sale of
23 computer generated material and appraisal manuals. Any funds
24 received as a result of the sale of such reproductions shall be

1 deposited to the appropriate account from which the payment for
2 reproduction is made.

3 (b) The Tax Commissioner may adopt any ~~regulation~~ rule adopted
4 prior to January 1, 1990, pursuant to article one-a of this
5 chapter, which adoption ~~shall not constitute~~ is not an
6 implementation of the statewide mass reappraisal of property. ~~Such~~
7 The adoption, including context modifications made necessary by the
8 enactment of this article, shall occur on or before July 1, 1991,
9 through inclusion in the plan required by section ten of this
10 article or inclusion in the minute record of the valuation
11 commission. Upon the adoption of any such ~~regulations~~ rule, any
12 modification or repeal of ~~such regulation~~ the rule shall be in
13 accordance with the provisions of article three, chapter twenty-
14 nine-a of this code.

15 **§11-1C-5c. Antique motor vehicle valuation for personal property**
16 **tax purposes.**

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

23 **§11-1C-5d. Reconciliation excise tax.**

24 (a) Upon the sale of any antique motor vehicle which is valued

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

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

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

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

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

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

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

1 (d) Failure to pay tax.

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

4 (e) General procedure and administration.

5 (1) The county commission may promulgate, by ordinance, order,
6 rule or regulation, administrative procedures for the assessment,
7 collection and refund of the tax authorized by this article. The
8 sheriff of the county is the county's agent for administration and
9 collection of the tax and may distrain property and initiate civil
10 suits for collection of this tax. The county commission may
11 promulgate regulations and return forms necessary or desirable for
12 the administration and collection of the tax.

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

NOTE: The purpose of this bill is to require antique motor vehicles to be assigned an appraised value of \$5,000 for purposes of ad valorem property taxes. The bill also requires the assessed value for all motor vehicles to be at least \$420. The bill would also impose on a sale of an antique motor vehicle, a reconciliation excise tax to recapture revenue from the sale.

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

§11-1C-5c and §11-1C-5d are new; therefore, they have been completely underscored.