

COMMITTEE SUBSTITUTE

FOR

H. B. 3058

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

(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 or sixty percent of \$700, whichever is higher.

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.

