

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **Senate Bill 85**

BY SENATOR KARNES

[Introduced January 10, 2018; Referred  
to the Committee on Government Organization; and then  
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §11-8A-1, §11-8A-2, §11-8A-3, §11-8A-4, §11-8A-5 and §11-8A-6, all relating  
 3 to allowing local units of government to lower personal property taxes by imposing local  
 4 sales taxes; setting forth a purpose; not requiring an agreement among local levying  
 5 bodies; setting the amount of sales tax permitted; determining levy setoff and  
 6 implementation; establishing a trigger to prohibit the collection of future personal property  
 7 taxes by any unit of state government; and providing for the sunset of article under certain  
 8 conditions.

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

**ARTICLE 8A. SALES TAX OFFSET TO PERSONAL PROPERTY LEVY RATES.**

**§11-8A-1. Purpose.**

1 The purpose of this article is to provide local units of government an optional alternative  
 2 to reduce personal property taxes to the lowest amount possible. Local units of government  
 3 exercising this option shall impose a local sales tax to replace the revenue now generated by  
 4 personal property taxes. Personal property tax levy rates shall be lowered by an amount equal to  
 5 eighty percent of the amount of revenue generated by the local sales tax. This reduction shall be  
 6 calculated separately for each levying body authorized by this article.

**§11-8A-2. No agreement required.**

1 Each levying body within a county has the option to participate in this initiative. In order to  
 2 participate a levying body shall hold not less than two public hearings. County boards of education  
 3 and county commissions may opt in by simple majority vote. Municipalities may opt in by  
 4 ordinance adopted subject to any restrictions contained within municipal charter.

**§11-8A-3. Amount of sales tax permitted; calculation; apportionment.**

1 The rate of sales tax imposed by the governments within the county may not exceed an  
 2 aggregate of two percent. The maximum rate for each levying body is as follows: County board  
 3 of education one percent, county commission one-half percent, municipalities one-half percent.

4 When the sales tax is instituted, each levying body shall reduce its personal property tax levy rate  
5 by an amount equal to eighty percent of the amount of money generated by the sales tax.

**§11-8A-4. Implementation.**

1 (a) The election to institute sales taxes and reduce personal property taxes, as provided  
2 in this article, may only occur at the beginning of a fiscal year.

3 (b) Upon adoption of this law, the State Tax Commissioner shall establish a process to  
4 collect from sales tax agents, information sufficient to establish data related to sales tax  
5 collections for each county and municipality.

6 (c) The State Tax Commissioner shall annually, before the last day of March, publish a  
7 report showing total sales tax collected from each county and municipality. The report shall also  
8 show the maximum expected tax collection for the county commission, county board of education  
9 and any municipality if the option contained in this article were to be exercised.

10 (d) Upon adoption of this law, the State Tax Commissioner shall compile a report  
11 containing the personal property tax collections for each covered levying board for the prior three  
12 years. This report shall be updated annually to continuously reflect the prior three years.

13 (e) For each levying body exercising the option, the highest annual collection in the prior  
14 three years shall be the “personal property tax baseline.” The baseline established at the time of  
15 adoption shall be the permanent “personal property tax baseline” for that levying body.

16 (f) The levying bodies shall use the data provided by the State Tax Commissioner to  
17 calculate the reduction in levying rates necessary to meet the requirements of this law.

18 (g) The “personal property tax collection target” shall be determined by subtracting eighty  
19 percent of anticipated sales tax collection from the “personal property tax baseline” established in  
20 subsection (e) of this section.

21 (h) Levy rates for each body shall be set to a rate sufficient to generate personal property  
22 tax collections approximately equal to the “personal property tax collection target” identified in  
23 subsection (g) of this section.

24 (i) If the formula in subsection (g) of this section used to produce the “personal property  
 25 tax collection target” results in a negative number the levying rate on personal property tax for the  
 26 levying body shall be set to zero.

**§11-8A-5. State personal property collection trigger; abolished.**

1 (a) If five or more county commissions or county boards of education elect to exercise the  
 2 option contained in this article the provisions of this article will take effect in the following fiscal  
 3 year.

4 (b) Upon the effective date of this article any future personal property tax collection by any  
 5 unit of state government under any other provisions of this code is prohibited.

**§11-8A-6. Sunset of this article.**

1 If no county commission, county board of education or municipality exercises the option  
 2 contained in this article by the tenth year following its effective date, this article is void.

NOTE: The purpose of this bill is to allow local units of government to lower personal property taxes by imposing local sales taxes; set forth a purpose; to not require an agreement among local levying bodies; to set the amount of sales tax permitted; determine levy setoff, and implementation to provide a trigger for prohibiting the collection of future personal property taxes by any unit of state government; and to provide for the sunset of the article under certain conditions.

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