

1 **ENGROSSED**

2 **H. B. 105**

3
4 (By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)

5 [By Request of the Executive]

6 [Introduced April 17, 2013.]
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10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §11-10-11c, relating
12 to administration of local sales and use taxes and local
13 excise taxes; granting the Tax Commissioner exclusive
14 responsibility for administering, collecting and enforcing
15 specified local sales and use taxes and excise taxes;
16 specifying jurisdiction and standing before the Office of Tax
17 Appeals; authorizing the Tax Commissioner to propose for
18 promulgation legislative rules to assess a fee for the
19 administration, collection and enforcement of specified local
20 sales and use taxes and excise taxes; providing a special fund
21 for deposit of the certain fees; and specifying an effective
22 date.

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

24 That the Code of West Virginia, 1931, as amended, be amended
25 by adding thereto a new section, designated §11-10-11c, to read as

1 follows:

2 **ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.**

3 **§11-10-11c. State administration of local sales and use taxes and**
4 **excise taxes; jurisdiction and standing before the**
5 **office of tax appeals; rule-making authority.**

6 (a) The Tax Commissioner has exclusive responsibility for
7 administering, collecting and enforcing all local sales and use
8 taxes and excise taxes imposed pursuant to article twenty-two,
9 chapter seven of this code, section five-a, article one, chapter
10 eight of this code, article thirteen-c, chapter eight of this code
11 and article thirty-eight, chapter eight of this code.

12 (b) Pursuant to, and limited by, the provisions of section
13 eight, article ten-a of this chapter, the Office of Tax Appeals has
14 exclusive and original jurisdiction to hear disputes arising from
15 any local sales and use taxes and excise taxes for which the Tax
16 Commissioner has exclusive administration, enforcement and
17 collection responsibility. No municipality or county has standing
18 before the Office of Tax Appeals in any dispute arising under any
19 local sales and use tax and excise tax upon which the Tax
20 Commissioner has exclusive responsibility for administration,
21 enforcement and collection.

22 (c) Notwithstanding any other provision of this code to the
23 contrary, the Tax Commissioner may assess a fee, to be established
24 by legislative rule pursuant to the provisions of article three,

1 chapter twenty nine-a of this code, to be retained from collections
2 authorized by section five-a, article one, chapter eight of this
3 code, and section six, article thirteen-c, chapter eight of this
4 code: *Provided*, That the fee may not exceed five percent of such
5 collections in total including any fee otherwise authorized by this
6 code or any duly enacted ordinance.

7 (d) Establishment of special revenue account.

8 (1) There is created in the State Treasury a special revenue
9 revolving fund account known as the "Local Sales Tax and Excise Tax
10 Administration Fund". Expenditures from the fund shall be for the
11 purposes set forth in this section and are not authorized from
12 collections but are to be made only in accordance with
13 appropriation by the Legislature and in accordance with the
14 provisions of article three, chapter twelve of this code: *Provided*,
15 That for the fiscal year ending June 30, 2014, expenditures are
16 authorized from collections rather than pursuant to appropriation
17 by the Legislature. The fund shall consist of:

18 (A) Any funds collected pursuant to section (c) of this
19 section; and

20 (B) Any funds received on and after July 1, 2013, from fees
21 retained by the Tax Commissioner pursuant to section six, article
22 thirteen-c, chapter eight of this code; and

23 (C) Amounts deducted and retained by the Tax Commissioner
24 under subsection (e), section eleven-a of this article; and

25 (D) Any future funds appropriated by the Legislature or

1 transferred by any public agency as contemplated or permitted by
2 applicable federal or state law; and

3 (E) Any accrued interest or other return on the moneys in the
4 fund.

5 (2) On July 1, 2013, all moneys in the Tax Department
6 "Municipal Sales and Use Tax Operations Fund" established under
7 section six, article thirteen-c, chapter eight of this code shall
8 be transferred to the Local Sales Tax and Excise Tax Administration
9 Fund established in this section.

10 (3) On July 1, 2013, all moneys in the "Special District
11 Excise Tax Administration Fund" established under section eleven-b
12 of this article shall be transferred to the Local Sales Tax and
13 Excise Tax Administration Fund established in this section.

14 (4) Amounts deposited in the Local Sales Tax and Excise Tax
15 Administration Fund may be expended by the Tax Commissioner for the
16 general administration, collection and enforcement of all local
17 sales and use taxes and excise taxes imposed pursuant to article
18 twenty-two, chapter seven of this code, section five-a, article
19 one, chapter eight of this code, article thirteen-c, chapter eight
20 of this code and article thirty-eight, chapter eight of this code.

21 (e) Notwithstanding the provisions of section eleven-b of this
22 article, The Tax Commissioner may prescribe by rule the schedule
23 and manner for deposits of moneys into the Local Sales Tax and
24 Excise Tax Administration Fund and any other administrative and
25 procedural requirements as may be useful or necessary for the

1 management and handling of the fund.

2 (f) Effective Date - The provisions of this section enacted in

3 2013 are effective on and after July 1, 2013.