

**H. B. 105**

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

[By Request of the Executive]

[Introduced April 17, 2013.]

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9 A BILL to amend the Code of West Virginia, 1931, as amended, by  
10 adding thereto a new section, designated §11-10-11c, relating  
11 to local sales and use taxes and local excise taxes; granting  
12 the Tax Commissioner exclusive responsibility for  
13 administering, collecting and enforcing specified local sales  
14 and use taxes and excise taxes; specifying jurisdiction and  
15 standing before the Office of Tax Appeals; permitting fees for  
16 collection of local sales and use taxes and excise taxes;  
17 providing a special fund for deposit of fees for collection of  
18 specified local sales and use taxes and excise taxes;  
19 providing that notwithstanding specified provisions, the Tax  
20 Commissioner may prescribe by rule the schedule and manner for  
21 deposit of moneys into the special fund for deposit of fees  
22 for collection of local sales and use taxes and excise taxes,  
23 and such other administrative and procedural requirements as  
24 may be useful or necessary for the management and handling of

1 the fund; authorizing the Tax Commissioner to promulgate  
2 ordinary and emergency rules; declaring that such rules may  
3 provide for administration, collection and enforcement of  
4 local sales and use taxes and excise taxes, assessment of a  
5 fee for the Tax Commissioner's services, authority for  
6 resolution of disputes, the schedule and manner for deposit of  
7 fees for collection of local sales and use taxes and excise  
8 taxes, and such other purposes as the Tax Commissioner may  
9 find useful or necessary; and specifying an effective date.

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

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

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

15 **§11-10-11c. State administration of local sales and use taxes and**  
16 **excise taxes; jurisdiction and standing before the**  
17 **office of tax appeals; rule-making authority;**  
18 **emergency rules.**

19 (a) The Tax Commissioner has exclusive responsibility for  
20 administering, collecting and enforcing all local sales and use  
21 taxes and excise taxes imposed pursuant to article twenty-two,  
22 chapter seven of this code, section five-a, article one, chapter  
23 eight of this code, article thirteen-c, chapter eight of this code

1 and article thirty-eight, chapter eight of this code.

2 (b) Pursuant to, and limited by, the provisions of section  
3 eight, article ten-a of this chapter, the Office of Tax Appeals has  
4 exclusive and original jurisdiction to hear disputes arising from  
5 any local sales and use taxes and excise taxes for which the Tax  
6 Commissioner has exclusive administration, enforcement and  
7 collection responsibility. No municipality or county has standing  
8 before the Office of Tax Appeals in any dispute arising under any  
9 local sales and use tax and excise tax upon which the Tax  
10 Commissioner has exclusive responsibility for administration,  
11 enforcement and collection.

12 (c) Notwithstanding any other provision of this code to the  
13 contrary, the Tax Commissioner may deduct and retain a fee for the  
14 benefit of his or her office for expenditure from all local sales  
15 and use taxes and excise taxes collected by the Tax Commissioner  
16 upon which he or she has exclusive responsibility for  
17 administering, collecting and enforcing: *Provided*, That such fee  
18 may exceed any fee otherwise authorized by this code or any duly  
19 enacted ordinance.

20 (d) Establishment of special revenue account.

21 (1) There is created in the State Treasury a special revenue  
22 revolving fund account known as the "Local Sales Tax and Excise Tax  
23 Administration Fund," which shall be an interest-bearing account  
24 and expenditures are authorized from collections. The fund shall

1 consist of:

2 (A) Any funds received on and after July 1, 2013, from fees  
3 charged by the Tax Commissioner pursuant to section six, article  
4 thirteen-c, chapter eight of this code; and

5 (B) Amounts deducted and retained by the Tax Commissioner  
6 under subsection (e), section eleven-a of this article; and

7 (C) Any future funds appropriated by the Legislature or  
8 transferred by any public agency as contemplated or permitted by  
9 applicable federal or state law; and

10 (D) Any accrued interest or other return on the moneys in the  
11 fund.

12 The balance remaining in the fund at the end of each fiscal  
13 year shall remain in the fund and not revert to the State General  
14 Revenue Fund.

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

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

24 (4) Amounts deposited in the "Local Sales Tax and Excise Tax

1 Administration Fund” may be expended by the Tax Commissioner for  
2 the general administration, collection and enforcement of all local  
3 sales and use taxes and excise taxes imposed pursuant to article  
4 twenty-two, chapter seven of this code, section five-a, article  
5 one, chapter eight of this code, article thirteen-c, chapter eight  
6 of this code and article thirty-eight, chapter eight of this code.

7 (e) Notwithstanding the provisions of section eleven-b of this  
8 article, The Tax Commissioner may prescribe by rule the schedule  
9 and manner for deposits of moneys into the “Local Sales Tax and  
10 Excise Tax Administration Fund” and such other administrative and  
11 procedural requirements as may be useful or necessary for the  
12 management and handling of the fund.

13 (f) The Tax Commissioner is hereby authorized to promulgate  
14 legislative rules pursuant to the provisions of article three,  
15 chapter twenty nine-a of this code: *Provided*, That notwithstanding  
16 the provisions of article three, chapter twenty-nine-a of this code  
17 relating to the promulgation, disapproval and amendment of rules ,  
18 the Tax Commissioner has authority to promulgate emergency rules  
19 pursuant to the Tax Commissioner’s finding that an emergency exists  
20 concerning the administration, assessment and collection of local  
21 taxes and levies requiring that emergency rules be promulgated, and  
22 may promulgate the same to accomplish the following purposes:

23 (1) Provide rules for administering, collecting and enforcing  
24 all local sales and use taxes and excise taxes.

1       (2) Provide for and impose a fee for the Tax Commissioner's  
2 services: Provided, That such fee may exceed any fee otherwise  
3 authorized by this code or any duly enacted ordinance for  
4 enforcement, administration and collection of any local sales and  
5 use taxes and excise taxes for which the Tax Commissioner has  
6 exclusive administration, enforcement and collection  
7 responsibility.

8       (3) Provide sole authority for resolution of disputes  
9 pertaining to the administration, enforcement and collection of the  
10 local taxes administered by the Tax Commissioner.

11       (4) Prescribe the schedule and manner of deposits of moneys  
12 into the "Local Sales Tax and Excise Tax Administration Fund" and  
13 such other administrative and procedural requirements as may be  
14 useful or necessary for the management and handling of the fund.

15       (5) Such other purpose the Tax Commissioner finds useful or  
16 necessary.

17       (g) Effective Date - The provisions of this section adopted in  
18 2013 are effective on and after July 1, 2013.

NOTE: The purpose of this bill is to grant the Tax Commissioner exclusive responsibility for administering, collecting and enforcing specified local sales and use taxes and excise taxes.

§11-10-11c is new; therefore, strike-throughs and underscoring have been omitted.