WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 682

BY SENATORS BLAIR AND BOSO

[Introduced March 20, 2017; Referred

to the Committee on Government Organization]

1   A BILL to amend and reenact §11-10-11c of the Code of West Virginia, 1931, as amended,

2   relating to the state administration of local sales and use taxes.

Be it enacted by the Legislature of West Virginia:

1   That §11-10-11c of the Code of West Virginia, 1931, as amended, be amended and

2   reenacted to read as follows:

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-11c. State administration of local sales and use taxes and excise taxes; jurisdiction

and standing before the office of tax appeals; rule-making authority.

1   (a) The Tax Commissioner has exclusive responsibility for administering, collecting and

2   enforcing all local sales and use taxes and excise taxes imposed pursuant to article twenty-two,

3   chapter seven of this code, section five-a, article one, chapter eight of this code, article thirteen-

4   c, chapter eight of this code and article thirty-eight, chapter eight of this code.

5   (b) Pursuant to, and limited by, the provisions of section eight, article ten-a of this chapter,

6   the Office of Tax Appeals has exclusive and original jurisdiction to hear disputes arising from any

7   local sales and use taxes and excise taxes for which the Tax Commissioner has exclusive

8   administration, enforcement and collection responsibility. No municipality or county has standing

9   before the Office of Tax Appeals in any dispute arising under any local sales and use tax and

10   excise tax upon which the Tax Commissioner has exclusive responsibility for administration,

11   enforcement and collection.

12   (c) Notwithstanding any other provision of this code to the contrary, the Tax Commissioner

13   may assess a fee, ~~to be established by legislative rule pursuant to the provisions of article three,~~

14   ~~chapter twenty-nine-a of this code~~ to be retained from collections authorized by section five-a,

15   article one, chapter eight of this code, and section six, article thirteen-c, chapter eight of this code.

16   ~~*Provided,* That the~~ The fee may not exceed five percent of such collections in total including any

17   fee otherwise authorized by this code or any duly enacted ordinance. The Tax Commissioner may

18   promulgate legislative rules pertaining to the establishment, setting, assessment, collection,

19   retention and administration of the fee: *Provided*, That on and after the effective date of this

20   section, as amended in 2017, a public hearing shall be held by the Tax Commissioner at least

21   thirty days prior to any increase in the fee to greater than three percent. A public notice of the

22   hearing shall be provided thirty days prior to the hearing. Notwithstanding any other provision of

23   this section or of this code, such fees in effect on the effective date of this subsection, as amended

24   in 2017, are preserved, and shall continue until such time as they may be revised or amended by

25   the Tax Commissioner.

26   (d) Establishment of special revenue account.

27   (1) There is created in the State Treasury a special revenue revolving fund account known

28   as the "Local Sales Tax and Excise Tax Administration Fund". Expenditures from the fund shall

29   be for the purposes set forth in this section and are not authorized from collections but are to be

30   made only in accordance with appropriation by the Legislature and in accordance with the

31   provisions of article three, chapter twelve of this code: *Provided,* That for the fiscal year ending

32   June 30, 2014, expenditures are authorized from collections rather than pursuant to appropriation

33   by the Legislature. The fund shall consist of:

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

35   (B) Any funds received on and after July 1, 2013, from fees retained by the Tax

36   Commissioner pursuant to section six, article thirteen-c, chapter eight of this code; and

37   (C) Amounts deducted and retained by the Tax Commissioner under subsection (e),

38   section eleven-a of this article; and

39   (D) Any future funds appropriated by the Legislature or transferred by any public agency

40   as contemplated or permitted by applicable federal or state law; and

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

42   (2) On July 1, 2013, all moneys in the Tax Department "Municipal Sales and Use Tax

43   Operations Fund" established under section six, article thirteen-c, chapter eight of this code shall

44   be transferred to the Local Sales Tax and Excise Tax Administration Fund established in this

45   section.

46   (3) On July 1, 2013, all moneys in the "Special District Excise Tax Administration Fund"

47   established under section eleven-b of this article shall be transferred to the Local Sales Tax and

48   Excise Tax Administration Fund established in this section.

49   (4) Amounts deposited in the Local Sales Tax and Excise Tax Administration Fund may

50   be expended by the Tax Commissioner for the general administration, collection and enforcement

51   of all local sales and use taxes and excise taxes imposed pursuant to article twenty-two, chapter

52   seven of this code, section five-a, article one, chapter eight of this code, article thirteen-c, chapter

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

54   (e) Notwithstanding the provisions of section eleven-b of this article, The Tax

55   Commissioner may prescribe by rule the schedule and manner for deposits of moneys into the

56   Local Sales Tax and Excise Tax Administration Fund and any other administrative and procedural

57   requirements as may be useful or necessary for the management and handling of the fund.

58   (f) Effective Date - The provisions of this section enacted in 2013 are effective on and after

59   July 1, 2013.

NOTE: The purpose of this bill is to require the Tax Commissioner to hold a public hearing
if the commissioner seeks to raise the fee for administering local sales and use taxes.

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