

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 81

**FISCAL
NOTE**

BY SENATOR FERNS

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

1 A BILL to amend and reenact §11-1C-10 of the Code of West Virginia, 1931, as amended, relating
2 to determining the assessed value of any share of natural resource property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

**§11-1C-10. Valuation of industrial property and natural resources property by Tax
Commissioner; penalties; methods; values sent to assessors.**

1 (a) As used in this section:

2 (1) "Industrial property" means real and personal property integrated as a functioning unit
3 intended for the assembling, processing and manufacturing of finished or partially finished
4 products.

5 (2) "Natural resources property" means coal, oil, natural gas, limestone, fireclay, dolomite,
6 sandstone, shale, sand and gravel, salt, lead, zinc, manganese, iron ore, radioactive minerals, oil
7 shale, managed timberland as defined in §11-1C-2 of this code, and other minerals.

8 (b) All owners of industrial property and natural resources property each year shall make
9 a return to the State Tax Commissioner and, if requested in writing by the assessor of the county
10 where situated, to such county assessor at a time and in the form specified by the commissioner
11 of all industrial or natural resources property owned by them. The commissioner may require any
12 information to be filed which would be useful in valuing the property covered in the return. Any
13 penalties provided for in this chapter or elsewhere in this code relating to failure to list any property
14 or to file any return or report may be applied to any owner of property required to make a return
15 pursuant to this section.

16 (c) The State Tax Commissioner shall value all industrial property in the state at its fair
17 market value within three years of the approval date of the plan for industrial property required in
18 subsection (e) of this section. The commissioner shall thereafter maintain accurate values for all
19 such property. The Tax Commissioner shall forward each industrial property appraisal to the
20 county assessor of the county in which that property is located and the assessor shall multiply

21 each such appraisal by sixty percent and include the resulting assessed value in the land book or
22 the personal property book, as appropriate for each tax year. The commissioner shall supply
23 support data that the assessor might need to evaluate the appraisal.

24 (d) Within three years of the approval date of the plan required for natural resources
25 property required pursuant to subsection (e) of this section, the State Tax Commissioner shall
26 determine the fair market value of all natural resources property in the state. The commissioner
27 shall thereafter maintain accurate values for all such property.

28 (1) In order to qualify for identification as managed timberland for property tax purposes
29 the owner must annually certify, in writing to the Division of Forestry, that the property meets the
30 definition of managed timberland as set forth in this article and contracts to manage property
31 according to a plan that will maintain the property as managed timberland. In addition, each
32 owner's certification must state that forest management practices will be conducted in accordance
33 with approved practices from the publication "Best Management Practices for Forestry". Property
34 certified as managed timberland shall be valued according to its use and productive potential.
35 The Tax Commissioner shall promulgate rules for certification as managed timberland.

36 (2) In the case of all other natural resources property, the commissioner shall develop an
37 inventory on a county by county basis of all such property and may use any resources, including,
38 but not limited to, geological survey information; exploratory, drilling, mining and other information
39 supplied by natural resources property owners; and maps and other information on file with the
40 state Division of Environmental Protection and office of miners' health, safety and training. Any
41 information supplied by natural resources owners or any proprietary or otherwise privileged
42 information supplied by the state Division of Environmental Protection and office of miner's health,
43 safety and training shall be kept confidential unless needed to defend an appraisal challenged by
44 a natural resources owner. ~~Formulas for natural resources valuation may contain differing~~
45 ~~variables based upon known geological or other common factors~~ The assessed value of any
46 share of a natural resource property shall be twice the value of the net production from the owner's

47 share of the unit for a tax year. For purposes of this section, net production is gross production
48 less any expenses and severance taxes. Annualized assessment is not permitted. The enactment
49 of changes made to this section during the 2018 Regular Session of the Legislature supersedes
50 any prior method of assessment of the value of natural resources property. The Tax
51 Commissioner shall forward each natural resources property appraisal to the county assessor of
52 the county in which that property is located and the assessor shall multiply each such appraisal
53 by sixty percent and include the resulting assessed value in the land book or the personal property
54 book, as appropriate, for each tax year. The commissioner shall supply support data that the
55 assessor might need to explain or defend the appraisal. The commissioner shall directly defend
56 any challenged appraisal when the assessed value of the property in question exceeds \$2 million
57 or an owner challenging an appraisal holds or controls property situated in the same county with
58 an assessed value exceeding \$2 million. ~~At least every five years, the commissioner shall review~~
59 ~~current technology for the recovery of natural resources property to determine if valuation~~
60 ~~methodologies need to be adjusted to reflect changes in value which result from development of~~
61 ~~new recovery technologies~~

62 (e) The Tax Commissioner shall develop a plan for the valuation of industrial property and
63 a plan for the valuation of natural resources property. The plans shall include expected costs and
64 reimbursements, and shall be submitted to the property valuation training and procedures
65 commission on or before January 1, 1991, for its approval on or before July 1, of such year. Such
66 plan shall be revised, resubmitted to the commission and approved every three years thereafter.

67 (f) To perform the valuation duties under this section, the State Tax Commissioner has the
68 authority to contract with a competent property appraisal firm or firms to assist with or to conduct
69 the valuation process as to any discernible species of property statewide if the contract and the
70 entity performing such contract is specifically included in a plan required by subsection (e) of this
71 section or otherwise approved by the commission. If the Tax Commissioner desires to contract
72 for valuation services only in one county or a group of counties, the contract must be approved

73 by the commission.

74 (g) The county assessor may accept the appraisal provided, pursuant to this section, by
75 the State Tax Commissioner: *Provided*, That if the county assessor fails to accept the appraisal
76 provided by the State Tax Commissioner, the county assessor shall show just cause to the
77 valuation commission for the failure to accept such appraisal and shall further provide to the
78 valuation commission a plan by which a different appraisal will be conducted.

79 (h) The costs of appraising the industrial and natural resources property within each
80 county, and any costs of defending same shall be paid by the state: *Provided*, That the office of
81 the state Attorney General shall provide legal representation on behalf of the Tax Commissioner
82 or assessor, at no cost, in the event the industrial and natural resources appraisal is challenged
83 in court.

84 (i) For purposes of revaluing managed timberland as defined in §11-1C-2 of this code, any
85 increase or decrease in valuation by the commissioner does not become effective prior to July 1,
86 1991. The property owner may request a hearing by the director of the Division of Forestry, who
87 may thereafter rescind the disqualification or allow the property owner a reasonable period of time
88 in which to qualify the property. A property owner may appeal a disqualification to the circuit court
89 of the county in which the property is located.

NOTE: The purpose of this bill is to specify how the assessed value of any share of natural resource property is to be determined.

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