WEST VIRGINIA CODE CHAPTER 11 ARTICLE 10C

WV Legislature

§11-10C-1. Legislative finding; short title and purpose.

The Legislature hereby finds that creation, development, acquisition and maintenance of an automated tax administration system by the Tax Division of the Department of Tax and Revenue are crucial to efficient operation of state government and in the best interests of the people of West Virginia; that the accuracy, efficiency and cost effectiveness of an automated tax administration system will benefit the people of West Virginia through cost savings, more efficient tax administration and more uniform and effective application of the tax laws of the state.

This article shall be known as the "Benefits-funded Purchasing Act" and is hereby established by the Legislature for the purpose of creating, developing and maintaining an automated tax administration system by the Tax Division of the Department of Tax and Revenue.

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§11-10C-2. Authorization of benefits-funded automated tax administration system purchasing program; reports; expiration of authority.

(a) The Tax Commissioner is hereby authorized to enter into contracts to finance and acquire an automated tax administration system and associated computer hardware and software for use in the registration of taxpayers, processing of remittances and returns and collection of delinquent taxes and any interest and penalties thereon and for general tax administration. The Tax Commissioner is further authorized to acquire the technical services and related services necessary to develop, implement and maintain such system and associated computer hardware and software.

(b) Prior to entering into any contract authorized by this article, the Tax Commissioner shall provide to the Joint Committee on Government and Finance a copy of the contract and a report setting forth a detailed summary of the terms of the contract, including the estimated amounts of vendor payments and other terms of financing anticipated under the contract and the date upon which vendor payments will end under the contract, and a description and the cost of the technical services and related services the Tax Commissioner determines is necessary to develop, implement and maintain the system and associated hardware or software to be acquired under the contract.

(c) The authority of the Tax Commissioner to enter into contracts to finance and acquire an automated tax administration system expires June 30, 2005. The expiration of that authority does not affect the authority of the Tax Commissioner to enter into contracts to maintain an automated tax administration system acquired pursuant to this section, including contracts for the acquisition of associated hardware, software or services after meeting the requirements of subsection (b) of this section.

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§11-10C-3. Benefits funding.

Notwithstanding any provision of article three, chapter five-a of this code or any other provision of this code to the contrary, payment of costs and compensation for the automated tax administration system, related hardware, software and services may be computed and paid: (1) On the basis of a percentage of the increase in the amount of taxes, interest and penalties collected which is attributable to implementation of the automated tax administration system, as may be described in detail by contract; or (2) on a fixed-fee contract basis, such fees to be paid from the increase in the amount of taxes, interest and penalties collected which is attributable to implementation of the automated tax administration system, as may be described in detail by contract.

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§11-10C-4. Monthly determination of increased revenue attributable to automated tax administration system; monthly report; deposit of moneys; creation and operation of automated tax administration system development fund; annual report.

(a) Revenue increment, fund created, operation of fund. --

(1) The Tax Commissioner shall determine monthly the total amount of increased revenue attributable to the successful implementation of the automated tax administration system under this article and the amount shall be paid into the State Treasury and deposited to the credit of a special fund known as the "Automated Tax Administration System Development Fund" which is hereby created. The Tax Commissioner is authorized to use moneys deposited in the automated tax administration system development fund to pay vendors of hardware, software or services pursuant to the terms of contracts created in accordance with this article. All moneys in excess of that required to be paid to the vendors, as determined by the Tax Commissioner, shall be transferred to the General Fund: Provided, That all moneys in excess of $750,000 remaining in the fund at the end of each fiscal year shall be transferred to the General Fund.

(2) The total monthly amount of increased revenue attributable to the successful implementation of the automated tax administration system as determined by the Tax Commissioner and the basis for the determination shall be reported to the Joint Committee on Government and Finance within ten days following the determination.

(b) Treatment of local moneys. --

(1) The amount of the local moneys derived from any tax imposed under this code which is directed or dedicated to local or municipal subdivisions shall not be deposited in the automated tax administration system development fund, but shall be paid undiminished, including any increase resulting from implementation of the automated tax administration system, to the local or municipal subdivision to which it is directed or dedicated by law. Local or municipal moneys shall be deposited, as directed by law, in those funds designated for orderly distribution of revenues to local or municipal subdivisions.

(2) For purposes of this section, the total amount of increased revenue attributable to the successful implementation of an automated tax administration system for purposes of determining the amount to be deposited in the automated tax administration system development fund and the amount of any benefits-funded payments to vendors under this article shall be determined after subtraction of any tax revenues payable to a local or municipal subdivision under this code.

(c) Reports. -- Prior to January 15, of each year, the Tax Commissioner shall submit a report to the Governor, the President of the Senate and the Speaker of the House of Delegates. The report shall include detailed information on the costs and benefits of implementing the automated tax administration system pursuant to this article during the fiscal year immediately preceding the submission of the report. The report shall be made until two

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complete fiscal years have elapsed following payment in full for the acquisition of the automated tax administration system by the Tax Commissioner.

(d) Other contracts and purchases not prohibited or hindered. -- This article shall not be construed to prohibit or hinder the Tax Commissioner from acquiring any goods or services for any Tax Division function or program not specifically included in any contract entered into pursuant to this article.

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§11-10C-5. Transfer of funds; repeal of article.

At the end of fiscal year two thousand thirteen, all moneys in the automated tax administration system development fund shall be transferred to the General Fund and the provisions of this article are repealed.

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