WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2008

COMMITTEE SUBSTITUTE
FOR
ENROLLED
Senate Bill No. 265

(By Senators Tomblin, Mr. President, and Caruth,
By Request of the Executive)

[Passed March 7, 2008; in effect ninety days from passage.]
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(BY SENATORS TOMBLIN, MR. PRESIDENT, AND CARUTH,
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[Passed March 7, 2008; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6H-1, §11-6H-2, §11-6H-3, §11-6H-4, §11-6H-4a, §11-6H-5, §11-6H-5a, §11-6H-6 and §11-6H-7, all relating to the method of valuation of certain aircraft; providing definitions; providing methodology for valuation of certain aircraft; stating that the initial determination of valuation is to be made by the county assessor; providing
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for an initial determination by the Board of Public Works for certain aircraft; authorizing the protest and appeal of the assessor’s decision; providing for an appeal to the Board of Public Works; requiring an economic report on the economic benefit of the valuation methodology; and providing an effective date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §11-6H-1, §11-6H-2, §11-6H-3, §11-6H-4, §11-6H-4a, §11-6H-5, §11-6H-5a, §11-6H-6 and §11-6H-7, all to read as follows:

ARTICLE 6H. VALUATION OF SPECIAL AIRCRAFT PROPERTY.

§11-6H-1. Short title.

This article shall be known and cited as the Special Aircraft Property Valuation Act.

§11-6H-2. Definitions.

(a) When used in this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section, unless a different meaning is clearly required by the context in which the term is used.

(b) Terms defined. —

(1) “Aircraft” means a weight-carrying structure for navigation of the air that is supported by the dynamic action of the air against its surfaces and includes, but is not limited to, an airplane or helicopter. For the purposes of this article, the term “aircraft” does not include dirigibles, balloons, kites, rockets, gliders,
ornithopters, fan wing vehicles, autogyros and powered
lift vehicles other than helicopters.

(2) “Airplane” means a fixed-wing aircraft heavier
than air that is driven by a propeller or by jet, turbojet,
turbofan, ram jet, pulse jet, scramjet or rocket engine
and supported by the dynamic reaction of air against its
wings.

(3) “Commercial airline” means an air transportation
system used to transport people and tangible personal
property for profit and includes carriers that operate
with fixed routes and flight schedules as well as charter
carriers.

(4) “Helicopter” means an aircraft whose support in
the air is derived chiefly from the aerodynamic forces
acting on one or more rotors turning about on
substantially vertical axes.

(5) “Private carrier” means any firm, partnership,
joint venture, joint stock company, any public or private
corporation, cooperative, trust, business trust or any
other group or combination acting as a unit that is
engaged in a primary business other than commercial
air transportation that operates an aircraft for the
transportation of employees or others for business
purposes.

(6) “Salvage value” means the lower of fair market
salvage value or five percent of the original cost of the
property.

(7) “Special aircraft property” means all aircraft
owned or leased by commercial airlines or private
Notwithstanding any other provision of this code to the contrary, the value of special aircraft property, for the purpose of ad valorem property taxation under this chapter and under article X of the Constitution of the State of West Virginia, shall be its salvage value.

The assessor of the county in which a specific item of property is located shall determine, in writing, whether that specific item of property is special aircraft property subject to valuation in accordance with this article. Upon making a determination that a taxpayer has special aircraft property, the county assessor shall notify the Tax Commissioner of that determination and shall provide information as the Tax Commissioner requires relating to that determination.

For special aircraft property subject to assessment by the Board of Public Works as provided for in article six of this chapter, the board shall determine, in writing, whether that specific item of property is special aircraft property subject to valuation in accordance with this article. Upon making a determination that a taxpayer has special aircraft property, the Board of Public Works shall notify the Tax Commissioner of that determination and shall provide information as the Tax Commissioner requires relating to that determination.
§11-6H-5. Protest and appeal.

At any time after the property is returned for taxation, but prior to the first day of January of the assessment year, any taxpayer may apply to the county assessor for information regarding the issue of whether any particular item or items of property constitute special aircraft property under this article which is subject to valuation in accordance with this article. If the taxpayer believes that some portion of the taxpayer's property is subject to the provisions of this article, the taxpayer may file objections in writing with the county assessor. The county assessor shall decide the matter by either sustaining the protest and making proper corrections or by stating, in writing if requested, the reasons for the county assessor's refusal. The county assessor may, and if the taxpayer requests, the county assessor shall, before the first day of January of the assessment year, certify the question to the Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements. The sworn statement or statements shall contain a full description of the property and its uses and any other information the Tax Commissioner requires.

The Tax Commissioner shall, as soon as possible upon receipt of the question, but in no case later than the twenty-eighth day of February of the assessment year, instruct the county assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the county assessor are binding upon the county assessor, but either the county assessor or the taxpayer may apply to the circuit court of the county for review of the question of the applicability of this article to the
property in the same fashion as is provided for appeals from the county commission in section twenty-five, article three of this chapter. The Tax Commissioner shall prescribe forms on which the questions under this section shall be certified and the Tax Commissioner has the authority to pursue any inquiry and procure any information which may be necessary for disposition of the matter.

§11-6H-5a. Protest and appeal to the Board of Public Works.

At any time after the property is returned for taxation, but prior to the first day of January of the assessment year, any public service business taxpayer may apply to the Board of Public Works for information regarding the issue of whether any particular item or items of property constitute special aircraft property under this article which is subject to valuation in accordance with this article. If the taxpayer believes that some portion of the taxpayer's property is subject to the provisions of this article, the taxpayer may file objections in writing with the board. The board shall decide the matter by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for the board's refusal.

Any taxpayer claiming to be aggrieved by any decision may apply by petition in writing, duly verified, to the circuit court of the county in which the property is situated, or if the property be situated in more than one county then in the county in which the largest assessment of the owner or operator was made in the next preceding year, for an appeal from the assessment and valuation made of all property, in the same fashion as is provided for appeals from the board in section
24 twelve, article six of this chapter.


The West Virginia Aeronautics Commission shall provide to the Joint Committee on Government and Finance by the first day of March, two thousand twelve, and on the first day of March of each of the two subsequent years, a report detailing the economic benefit of the valuation method specified in this article. The report is to include the number of new jobs created, number of additional aircraft relocated to West Virginia, number of new hangars built and the ad valorem property tax impact.

§11-6H-7. Effective date.

This article shall be effective for assessment years commencing on and after the first day of July, two thousand nine.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within ............................................. this
the ................................ Day of ................................ 2008.

Governor