

H. B. 2030

(By Delegates Doyle, Fleischauer and Marshall)
[Introduced January 12, 2011; referred to the
Committee on Energy, Industry and Labor, Economic
Development and Small Business then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-13A-3 of the Code of West Virginia,
1931, as amended, relating to a severance tax imposed on
surface mining activities; proceeds dedicated to surface mine
reclamation fund.

Be it enacted by the Legislature of West Virginia:

That §11-13A-3 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE TAXES.

**§11-13A-3. Imposition of tax on privilege of severing coal,
limestone or sandstone, or furnishing certain
health care services, effective dates therefor;
reduction of severance rate for coal mined by
underground methods based on seam thickness.**

(a) *Imposition of tax.* -- Upon every person exercising the
privilege of engaging or continuing within this state in the

1 business of severing, extracting, reducing to possession and
2 producing for sale, profit or commercial use coal, limestone or
3 sandstone, or in the business of furnishing certain health care
4 services, there is hereby levied and shall be collected from every
5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* -- The tax imposed in subsection
7 (a) of this section ~~shall be~~ is five percent of the gross value of
8 the natural resource produced or the health care service provided,
9 as shown by the gross income derived from the sale or furnishing
10 thereof by the producer or the provider of the health care service,
11 except as otherwise provided in this article. In the case of coal,
12 this five percent rate of tax includes the thirty-five one
13 hundredths of one percent additional severance tax on coal imposed
14 by the state for the benefit of counties and municipalities as
15 provided in section six of this article.

16 (c) *"Certain health care services" defined.* -- For purposes of
17 this section, the term "certain health care services" means, and is
18 limited to, behavioral health services.

19 (d) *Tax in addition to other taxes.* -- The tax imposed by this
20 section ~~shall apply~~ applies to all persons severing or processing
21 (or both severing and processing) in this state natural resources
22 enumerated in subsection (a) of this section and to all persons
23 providing certain health care services in this state as enumerated
24 in subsection (c) of this section and shall be in addition to all

1 other taxes imposed by law.

2 (e) *Effective date.* -- This section, as amended in the year
3 1993, shall apply to gross proceeds derived after May 31 of such
4 year. The language of this section, as in effect on January 1 of
5 such year, shall apply to gross proceeds derived prior to June 1 of
6 such year and, with respect to such gross proceeds, shall be fully
7 and completely preserved.

8 (f) *Reduction of severance tax rate.* -- For tax years
9 beginning after the effective date of this subsection, any person
10 exercising the privilege of engaging within this state in the
11 business of severing coal for the purposes provided in subsection
12 (a) of this section shall be allowed a reduced rate of tax on coal
13 mined by underground methods in accordance with the following:

14 (i) For coal mined by underground methods from seams with an
15 average thickness of thirty-seven inches to forty-five inches, the
16 tax imposed in subsection (a) of this section shall be two percent
17 of the gross value of the coal produced. For coal mined by
18 underground methods from seams with an average thickness of less
19 than thirty-seven inches, the tax imposed in subsection (a) of this
20 section shall be one percent of the gross value of the coal
21 produced. Gross value is determined from the sale of the mined
22 coal by the producer. This rate of tax includes the thirty-five
23 one hundredths of one percent additional severance tax imposed by
24 the state for the benefit of counties and municipalities as

1 provided in section six of this article.

2 (ii) This reduced rate of tax applies to any new underground
3 mine producing coal after the effective date of this subsection,
4 from seams of less than forty-five inches in average thickness or
5 any existing mine that has not produced coal from seams forty-five
6 inches or less in thickness in the one hundred eighty days
7 immediately preceding the effective date of this subsection.

8 (iii) The seam thickness shall be based on the weighted
9 average isopach mapping of actual coal thickness by mine as
10 certified by a professional engineer.

11 (g) In addition to the amount of tax imposed by subsection (b)
12 of this section, section six of this article, and all other taxes
13 imposed by law, upon every person exercising the privilege of
14 engaging or continuing within this state in the business of
15 severing, extracting, reducing to possession and producing for
16 sale, profit or commercial use, coal by means other than
17 underground methods, shall be collected an additional severance tax
18 in the amount of five percent of the gross value of the coal
19 produced as shown by the gross income derived from the sale or
20 furnishing thereof by the producer, the proceeds of which shall be
21 dedicated to the Surface Mine Reclamation Fund pursuant to section
22 eleven, article three, chapter twenty-two of this code. This
23 subsection, as amended in the year 2011, shall apply to gross
24 proceeds derived after May 31 of such year.

NOTE: The purpose of this bill is to impose a severance tax on surface mining activities with proceeds dedicated to the Surface Mine Reclamation Fund.

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