

1 **H. B. 2978**

2
3 (By Delegates Duke, Canterbury, Ashley, Walters,
4 Nelson, Ellington, Howell, Householder, Rowan
5 and Gearheart)

6 [Introduced February 1, 2011; referred to the
7 Committee on Finance.]

**FISCAL
NOTE**

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9
10 A BILL to amend and reenact §11-23-6 of the Code of West Virginia,
11 1931, as amended, relating to abolishing the business
12 franchise tax starting July 1, 2011.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §11-23-6 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 **ARTICLE 23. BUSINESS FRANCHISE TAX.**

17 **§11-23-6. Imposition of tax; change in rate of tax.**

18 (a) *General.* -- An annual business franchise tax is hereby
19 imposed on the privilege of doing business in this state and in
20 respect of the benefits and protection conferred. Such tax shall
21 be collected from every domestic corporation, every corporation
22 having its commercial domicile in this state, every foreign or
23 domestic corporation owning or leasing real or tangible personal
24 property located in this state or doing business in this state and

1 from every partnership owning or leasing real or tangible personal
2 property located in this state or doing business in this state
3 effective on and after July 1, 1987.

4 (b) *Amount of tax and rate; effective date.* --

5 (1) On and after July 1, 1987, the amount of tax shall be the
6 greater of \$50 or fifty-five one hundredths of one percent of the
7 value of the tax base, as determined under this article. ~~Provided,~~
8 ~~That~~ However, when the taxpayer's first taxable year under this
9 article is a short taxable year, the taxpayer's liability shall be
10 prorated based upon the ratio of months in which such short taxable
11 year bears to twelve. ~~Provided, however, That~~ In addition, this
12 subdivision shall not apply to taxable years beginning on or after
13 January 1, 1989.

14 (2) *Taxable years after December 31, 1988.* -- For taxable
15 years beginning on or after January 1, 1989, the amount of tax due
16 under this article shall be the greater of \$50 or seventy-five one
17 hundredths of one percent of the value of the tax base under this
18 article.

19 (3) *Taxable years after June 30, 1997.* -- For taxable years
20 beginning on or after July 1, 1997, the amount of tax due under
21 this article shall be the greater of \$50 or seventy hundredths of
22 one percent of the value of the tax base under this article.

23 (4) *Taxable years after December 31, 2006.* -- For taxable
24 years beginning on or after January 1, 2007, the amount of tax due

1 under this article shall be the greater of \$50 or fifty-five one
2 hundredths of one percent of the value of the tax base under this
3 article.

4 (5) *Taxable years after December 31, 2008.* -- For taxable
5 years beginning on or after January 1, 2009, the amount of tax due
6 under this article shall be the greater of \$50 or forty-eight one
7 hundredths of one percent of the value of the tax base as
8 determined under this article.

9 ~~(6) *Taxable years after the thirty-first day of December, two*~~
10 ~~*thousand nine.*~~ -- For taxable years beginning on or after the first
11 day of January, two thousand ten, the amount of tax due under this
12 article shall be the greater of fifty dollars or forty-one one
13 hundredths of one percent of the value of the tax base as
14 determined under this article.

15 ~~(7) *Taxable years after the thirty-first day of December, two*~~
16 ~~*thousand ten.*~~ -- For taxable years beginning on or after the first
17 day of January, two thousand eleven, the amount of tax due under
18 this article shall be the greater of fifty dollars or thirty-four
19 one hundredths of one percent of the value of the tax base as
20 determined under this article.

21 ~~(8) *Taxable years after the thirty-first day of December, two*~~
22 ~~*thousand eleven.*~~ -- For taxable years beginning on or after the
23 first day of January, two thousand twelve, the amount of tax due
24 under this article shall be the greater of fifty dollars or

1 ~~twenty-seven one hundredths of one percent of the value of the tax~~
2 ~~base as determined under this article.~~

3 ~~(9) Taxable years after the thirty-first day of December, two~~
4 ~~thousand twelve. -- For taxable years beginning on or after the~~
5 ~~first day of January, two thousand thirteen, the amount of tax due~~
6 ~~under this article shall be the greater of fifty dollars or twenty~~
7 ~~one hundredths of one percent of the value of the tax base as~~
8 ~~determined under this article.~~

9 ~~(10) Taxable years after the thirty-first day of December, two~~
10 ~~thousand thirteen. -- For taxable years beginning on or after the~~
11 ~~first day of January, two thousand fourteen, the amount of tax due~~
12 ~~under this article shall be the greater of fifty dollars or ten one~~
13 ~~hundredths of one percent of the value of the tax base as~~
14 ~~determined under this article.~~

15 ~~(11) Taxable years after the thirty-first day of December, two~~
16 ~~thousand fourteen. -- For taxable years beginning on or after the~~
17 ~~first day of January, two thousand fifteen, there shall be no tax~~
18 ~~due under the provisions of this article.~~

19 (6) Abolishment of tax. -- For taxable years after December
20 31, 2011, the tax imposed by this article is abolished.

21 (c) *Short taxable years.* -- When the taxpayer's taxable year
22 for federal income tax purposes is a short taxable year, the tax
23 determined by application of the tax rate to the taxpayer's tax
24 base shall be prorated based upon the ratio of months in such short

1 taxable year bears to twelve. ~~Provided, That~~ When the taxpayer's
2 first taxable year under this article is less than twelve months,
3 the taxpayer's liability shall be prorated based upon the ratio
4 which the number of months the taxpayer was doing business in this
5 state bears to twelve, but in no event shall the tax due be less
6 than \$50.

NOTE: The purpose of this bill is to abolish the business franchise tax effective January 1, 2012.

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