

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 157**

4 (By Senators Klempa, Edgell, Yost, Williams, Beach, Kessler (Mr.
5 President), Prezioso and Sypolt)

6 _____
7 [Originating in the Committee on Energy, Industry and Mining;
8 reported February 22, 2012.]

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10 _____
11
12 A BILL to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new section, designated §11-13A-5b, relating
14 to reallocating and dedicating three percent of oil and gas
15 severance tax revenues up to \$20 million annually to the oil-
16 and gas-producing counties of origin and their respective
17 municipalities; establishing state and local oil- and gas-
18 county reallocated severance tax funds and providing for
19 distribution of the moneys to the county commissions and
20 governing bodies of the municipalities by the State Treasurer;
21 establishing amounts each oil- and gas-producing county and
22 their respective municipalities are to receive; requiring the
23 creation of local funds into which moneys are to be deposited;
24 requiring moneys be expended solely for economic development

1 projects and infrastructure projects; providing definitions;
2 providing restrictions on the expenditure of moneys; providing
3 duties of State Tax Commissioner; requiring report of
4 expenditures to Joint Committee on Government and Finance;
5 providing audits of distributed funds when authorized by the
6 Joint Committee on Government and Finance; and authorizing
7 legislative and emergency rules.

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

9 That the Code of West Virginia, 1931, as amended, be amended
10 by adding thereto a new section, designated §11-13A-5b, to read as
11 follows:

12 **ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

13 **§11-13A-5b. Reallocation and dedication of percentage of**
14 **severance tax for benefit of oil and gas**
15 **producing counties and their municipalities;**
16 **permissible uses of distributed revenues; duties**
17 **of State Treasurer and State Tax Commissioner;**
18 **audits; rulemaking.**

19 (a) The purpose of this section is to provide for the
20 reallocation and dedication of a portion of the tax attributable to
21 the severance of oil and gas imposed by section three-a of this
22 article for the use and benefit of the various counties and their
23 respective municipalities in which the oil and gas upon which that
24 tax is imposed was located at the time it was severed from the

1 ground.

2 (b)(1) Effective July 1, 2013, two percent of the tax
3 attributable to the severance of oil and gas imposed by section
4 three-a of this article shall be transferred to the county
5 commissions of the oil and gas producing counties as provided in
6 this section.

7 (2) Effective July 1, 2013, one percent of the tax
8 attributable to the severance of oil and gas imposed by section
9 three-a of this article shall be transferred to the governing
10 bodies of municipalities within the oil and gas producing counties
11 as provided in this section on a population pro rata basis.

12 (3) In no fiscal year may the proceeds dedicated in
13 subdivisions (1) and (2) of this subsection exceed the sum of \$20
14 million.

15 (c) The amounts of the tax dedicated in subsection (b) of this
16 section shall be deposited, from time to time, into a special fund
17 known as the Oil and Gas County and Municipality Reallocated
18 Severance Tax Fund, which is hereby established in the State
19 Treasury, as the proceeds are received by the State Tax
20 Commissioner.

21 (d) The net proceeds of the deposits made into the Oil and Gas
22 County and Municipality Reallocated Severance Tax Fund shall be
23 allocated among and distributed annually to the oil and gas
24 producing counties and their respective municipalities by the State

1 Treasurer in the manner specified in this section. On or before
2 each distribution date, the State Treasurer shall determine the
3 total amount of moneys that will be available for distribution to
4 the respective counties and municipalities entitled to the moneys
5 on that distribution date. The amount to which a oil and gas
6 producing county or municipality is entitled from the Oil and Gas
7 County and Municipality Reallocated Severance Tax Fund shall be
8 determined in accordance with subsection (e) of this section. After
9 determining as set forth in subsection (e) of this section the
10 amount each oil and gas producing county and municipality are
11 entitled to receive from the fund, a warrant of the State Auditor
12 for the sum due to each oil and gas producing county and
13 municipality shall be issued and a check drawn thereon making
14 payment of that amount shall thereafter be distributed to each such
15 oil and gas producing county and municipality by hand, mail
16 commercial delivery or electronic transmission.

17 (e) The amount to which an oil and gas producing county or
18 municipality is entitled from the Oil and Gas County and
19 Municipality Reallocated Severance Tax Fund shall be determined by:

20 (1) Dividing the total amount of moneys in the fund then
21 available for distribution by the total number of barrels of oil
22 and total number of cubic feet of gas produced in this state during
23 the preceding year; and

24 (2) Multiplying the quotient thus obtained of each by number

1 of barrels of oil and number of cubic feet of gas produced in the
2 county during the preceding year.

3 (f) (1) No distribution made to a county or municipality under
4 this section may be deposited into the county's or municipality's
5 General Revenue Fund. The county commission of each county and the
6 governing body of each municipality receiving a distribution under
7 this section shall establish a special account to be known as the
8 "(Name of County or Municipality) Oil and Gas County (or
9 Municipality) Reallocated Severance Tax Fund" into which all
10 distributions made to that county or municipality under this
11 section shall be deposited.

12 (2) Moneys in the county's and municipality's oil and gas
13 county reallocated severance tax fund shall be expended by the
14 county commission and governing body of the municipality solely for
15 economic development projects and infrastructure projects.

16 (3) For purposes of this section:

17 (A) "Economic development project" means a project in the
18 state which is likely to foster economic growth and development in
19 the area in which the project is developed for commercial,
20 industrial, community improvement or preservation or other proper
21 purposes.

22 (B) "Infrastructure project" means a project in the state
23 which is likely to foster infrastructure improvements including,
24 but not limited to, post-mining land use, any water or wastewater

1 facilities or any part thereof, storm water systems, steam, gas,
2 telephone and telecommunications, broadband development, electric
3 lines and installations, roads, bridges, railroad spurs, drainage
4 and flood control facilities, industrial park development or
5 buildings that promote job creation and retention.

6 (4) A county commission or governing body of a municipality
7 may not expend any of the funds available in its oil and gas county
8 and municipality reallocated severance tax fund for personal
9 services, for the costs of issuing bonds, or for the payment of
10 bond debt service, and shall direct the total funds available in
11 its oil and gas county and municipality reallocated severance tax
12 funds to project development, which may include the costs of
13 architectural and engineering plans, site assessments, site
14 remediation, specifications and surveys, and any other expenses
15 necessary or incidental to determining the feasibility or
16 practicability of any economic development project or
17 infrastructure project.

18 (g) On or before December 31, 2014, and December 1 of each
19 year thereafter, the county commission of each county and governing
20 body of each municipality receiving a distribution of more than
21 \$5,000.00 of funds under this section shall deliver to the Joint
22 Committee on Government and Finance a written report setting forth
23 the specific projects for which those funds were expended during
24 the next preceding fiscal year, a detailed account of those

1 expenditures, and a showing that the expenditures were made for the
2 purposes required by this section.

3 (h) An audit of any funds distributed under this section may
4 be authorized at any time by the Joint Committee on Government and
5 Finance to be conducted by the Legislative Auditor at no cost to
6 the county commission or municipality audited.

7 (i) The State Tax Commissioner shall propose for promulgation
8 legislative rules pursuant to article three, chapter twenty-nine-a
9 of this code for the administration of the provisions of this
10 section, and is authorized to promulgate emergency rules for those
11 purposes pursuant to that article.

NOTE: The purpose of this bill is to reallocate and dedicate three percent of oil and gas severance tax revenues up to \$20 million annually to the oil and gas producing counties of origin and their respective municipalities. The bill establishes state and local oil and gas county reallocated severance tax funds and provides for distribution of the moneys to the county commissions and governing bodies of the municipalities by the State Treasurer. The bill establishes amounts each oil and gas producing county and their respective municipalities are to receive and requires the creation of local funds into which moneys are to be deposited. The bill requires the funds to be used solely for economic development projects and infrastructure projects. The bill also provides restrictions on fund expenditures. The bill sets forth duties of State Tax Commissioner. The bill requires a report of expenditures to Joint Committee on Government and Finance, The bill also provides for audits of distributed funds when authorized by the Joint Committee on Government and Finance and authorizes legislative and emergency rules.

This section is new; therefore, strike-throughs and underscoring have been omitted.