

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 2407

FISCAL  
NOTE

2015 Carryover

(BY DELEGATES STORCH, ZATEZALO, WELD, FLUHARTY,  
TRECOST, FERRO AND D. EVANS)

[Introduced January 13, 2016; referred to the  
Committee on Energy then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §11-13A-5c, relating to reallocating and dedicating three percent of oil and gas  
 3 severance tax revenues up to \$20 million annually to the oil and gas producing counties  
 4 of origin and their respective municipalities; establishing state and local oil and gas county  
 5 reallocated severance tax funds and providing for distribution of the moneys to the county  
 6 commissions and governing bodies of the municipalities by the State Treasurer;  
 7 establishing amounts each oil and gas producing county and their respective  
 8 municipalities are to receive; requiring the creation of local funds into which moneys are  
 9 to be deposited; requiring moneys be expended solely for economic development projects  
 10 and infrastructure projects; providing definitions; providing restrictions on the expenditure  
 11 of moneys; providing duties of State Tax Commissioner; requiring report of expenditures  
 12 to Joint Committee on Government and Finance; providing audits of distributed funds  
 13 when authorized by the Joint Committee on Government and Finance; and authorizing  
 14 legislative and emergency rules.

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

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

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

**§11-13A-5c. Reallocation and dedication of percentage of severance tax for benefit of oil  
 and gas producing counties and their municipalities; permissible uses of  
 distributed revenues; duties of State Treasurer and State Tax Commissioner;  
 audits; rule-making.**

1 (a) The purpose of this section is to provide for the reallocation and dedication of a portion  
 2 of the tax attributable to the severance of oil and gas imposed by section three-a of this article for

3 the use and benefit of the various counties and their respective municipalities in which the oil and  
4 gas was located at the time it was severed from the ground.

5 (b) (1) Effective July 1, 2015, two percent of the tax attributable to the severance of oil and  
6 gas imposed by section three-a of this article shall be transferred to the county commissions of  
7 the oil and gas producing counties as provided in this section.

8 (2) Effective July 1, 2015, one percent of the tax attributable to the severance of oil and  
9 gas imposed by section three-a of this article shall be transferred to the governing bodies of  
10 municipalities within the oil and gas producing counties as provided in this section on a population  
11 pro rata basis.

12 (3) The proceeds dedicated in subdivisions (1) and (2) of this subsection may not exceed  
13 the sum of \$20 million per year.

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

18 (d) The net proceeds of the deposits made into the Oil and Gas County and Municipality  
19 Reallocated Severance Tax Fund shall be allocated among and distributed quarterly to the oil and  
20 gas producing counties and their respective municipalities by the State Treasurer in the manner  
21 specified in this section. On or before each distribution date, the State Treasurer shall determine  
22 the total amount of moneys that will be available for distribution to the respective counties and  
23 municipalities entitled to the moneys on that distribution date. The amount to which an oil and  
24 gas producing county or municipality is entitled from the Oil and Gas County and Municipality  
25 Reallocated Severance Tax Fund shall be determined in accordance with subsection (e) of this  
26 section. After determining the amount each oil and gas producing county and municipality are

27 entitled to receive from the fund, a warrant of the State Auditor for the sum due to each oil and  
28 gas producing county and municipality shall be issued and a check drawn thereon making  
29 payment of that amount to the oil and gas producing county and municipality by hand, mail  
30 commercial delivery or electronic transmission.

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

34 (1) Dividing the total amount of moneys in the fund then available for distribution by the  
35 total number of barrels of oil and total number of cubic feet of gas produced in this state during  
36 the preceding quarter; and

37 (2) Multiplying the quotient thus obtained of each by number of barrels of oil and number  
38 of cubic feet of gas produced in the county or municipality during the preceding quarter.

39 (f) (1) No distribution made to a county or municipality under this section may be deposited  
40 into the county's or municipality's General Revenue Fund. The county commission of each county  
41 and the governing body of each municipality receiving a distribution under this section shall  
42 establish a special account to be known as the "(Name of County or Municipality) Oil and Gas  
43 County (or Municipality) Reallocated Severance Tax Fund" into which all distributions made to  
44 that county or municipality under this section shall be deposited.

45 (2) Moneys in the county's and municipality's oil and gas county reallocated severance  
46 tax funds shall be expended by the county commission and governing body of the municipality  
47 solely for economic development projects and infrastructure projects.

48 (3) For purposes of this section:

49 (A) "Economic development project" means a project in the state which is likely to foster  
50 economic growth and development in the area in which the project is developed for commercial,

51 industrial, community improvement or preservation or other proper purposes.

52 (B) "Infrastructure project" means a project in the state which is likely to foster  
53 infrastructure improvements including, but not limited to, post-mining land use, water or  
54 wastewater facilities or a part thereof, storm water systems, steam, gas, telephone and  
55 telecommunications, broadband development, electric lines and installations, roads, bridges,  
56 railroad spurs, drainage and flood control facilities, industrial park development or buildings that  
57 promote job creation and retention.

58 (4) A county commission or governing body of a municipality may not expend any of the  
59 funds available in its oil and gas county and municipality reallocated severance tax fund for  
60 personal services, for the costs of issuing bonds or for the payment of bond debt service. Total  
61 funds available shall be directed to project development which may include the costs of  
62 architectural and engineering plans, site assessments, site remediation, specifications and  
63 surveys and other expenses necessary or incidental to determining the feasibility or practicability  
64 of an economic development project or infrastructure project.

65 (g) On or before December 31, 2016, and December 1 of each year thereafter, the county  
66 commission of each county and governing body of each municipality receiving a distribution of  
67 funds under this section shall deliver to the Joint Committee on Government and Finance a written  
68 report setting forth the specific projects for which those funds were expended during the preceding  
69 fiscal year, a detailed account of those expenditures and a showing that the expenditures were  
70 made for the purposes required by this section.

71 (h) An audit of funds distributed under this section may be authorized at any time by the  
72 Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no  
73 cost to the county commission audited.

74 (i) The State Tax Commissioner shall propose for legislative approval legislative rules

75 pursuant to article three, chapter twenty-nine-a of this code for the administration of the provisions  
76 of this section, and is authorized to promulgate emergency rules for those purposes pursuant to  
77 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 a procedure for determining the 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 the 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. The bill authorizes legislative and emergency rules.

This section is new; therefore, it has been completely underscored.