

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4536**

BY DELEGATES PHILLIPS, ELDRIDGE, MARCUM, P. WHITE,  
RODIGHERO, O'NEAL, CANTERBURY, B. WHITE, ARVON,  
KESSINGER AND PERDUE

[Introduced February 15, 2016; Referred  
to the Committee on Energy then Finance.]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
 2 to reducing the severance tax on coal to two percent of gross value; create a “Local  
 3 Government Economic Assistance Fund”; and provide that all of this tax be deposited into  
 4 the fund for distribution to the coal producing counties.

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

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

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

**§11-13A-3. Imposition of tax or 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;  
“Local Government Economic Assistance Fund” created.**

1 (a) *Imposition of tax.* -- Upon every person exercising the privilege of engaging or  
 2 continuing within this state in the business of severing, extracting, reducing to possession and  
 3 producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of  
 4 furnishing certain health care 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.* – Effective July 1, 2016. The tax imposed in subsection (a)  
 7 of this section shall be ~~five percent~~ two percent of the gross value of the natural resource produced  
 8 or the health care service provided, as shown by the gross income derived from the sale or  
 9 furnishing thereof by the producer or the provider of the health care service, except as otherwise  
 10 provided in this article. In the case of coal, this ~~five percent~~ two percent rate of tax includes the  
 11 thirty-five one hundredths of one percent additional severance tax on coal imposed by the state  
 12 for the benefit of counties and municipalities as provided in section six of this article.

13 (c) *“Certain health care services” defined.* -- For purposes of this section, the term "certain  
 14 health care services" means, and is limited to, behavioral health services.

15           (d) *Tax in addition to other taxes.* -- The tax imposed by this section shall apply to all  
16 persons severing or processing (or both severing and processing) in this state natural resources  
17 enumerated in subsection (a) of this section and to all persons providing certain health care  
18 services in this state as enumerated in subsection (c) of this section and shall be in addition to all  
19 other taxes imposed by law.

20           (e) *Effective date.* -- This section, as amended in the year one thousand nine hundred  
21 ninety-three, shall apply to gross proceeds derived after the thirty-first day of May of such year.  
22 The language of this section, as in effect on January 1, of such year, shall apply to gross proceeds  
23 derived prior to June 1 of such year and, with respect to such gross proceeds, shall be fully and  
24 completely preserved.

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

29           (i) For coal mined by underground methods from seams with an average thickness of  
30 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be  
31 two percent of the gross value of the coal produced. For coal mined by underground methods  
32 from seams with an average thickness of less than thirty-seven inches, the tax imposed in  
33 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross  
34 value is determined from the sale of the mined coal by the producer. This rate of tax includes the  
35 thirty-five one hundredths of one percent additional severance tax imposed by the state for the  
36 benefit of counties and municipalities as provided in section six of this article.

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

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

43 (g) There is hereby created in the State Treasury a fund entitled “Local Government  
44 Economic Assistance Fund”. Effective July 1, 2016, all of the revenue from the severance tax on  
45 coal imposed by this section shall be deposited into this fund and shall be prorated for expenditure  
46 in coal producing and coal impact counties according to each county’s allocable part in the fund.

47 (h) The transfers of the taxes provided in subsections (a) and (g) of this section shall be  
48 made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer  
49 is due, except that the last quarterly transfer shall be made after the close of the fiscal year  
50 accounting records and shall be adjusted to provide the balance transfer required by this  
51 subsection.

NOTE: The purpose of this bill is to reduce the severance tax on coal to two percent of gross value; create a “Local Government Economic Assistance Fund “; and provide that all of this tax be deposited into the fund for distribution to the coal producing counties.

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