

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 375

**FISCAL
NOTE**

BY SENATORS BOSO AND SMITH

[Introduced February 21, 2017; Referred
to the Committee on Natural Resources; and then to
the Committee on Finance]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating
 2 to the rate and measure of severance taxes on certain natural resources; changing the
 3 rate of tax on limestone, sandstone and other stone products from a percentage of sale
 4 price to a flat rate; clarifying the effect of existing law on rates of coal produced by
 5 underground mining methods; correcting an internal reference; and removing outdated
 6 language.

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 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.**

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.* —

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

14 section six of this article.

15 (2) For tax years beginning after December 31, 2016, the severance tax for limestone,
16 sandstone, mined aggregate products and crushed stone shall be 9¢ per ton of product sold by
17 the producer of the natural resource material. For the purposes of this section, “mined aggregate
18 products” includes limestone sand, sand, gravel, shale, dolomite and granite that has been
19 physically severed from the earth by a natural resource producer.

20 (c) *“Certain health care services” defined.* — For purposes of this section, the term “certain
21 health care services” means, and is limited to, behavioral health services.

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

27 (e) *Effective date.* — This section, as amended in 1993, shall apply to gross proceeds
28 derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall
29 apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds,
30 shall be fully and completely preserved.

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

35 (1) For coal mined by underground methods from seams with an average thickness of
36 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be
37 two percent of the gross value of the coal produced. For coal mined by underground methods
38 from seams with an average thickness of less than thirty-seven inches, the tax imposed in
39 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross

40 value is determined from the sale of the mined coal by the producer. This rate of tax includes the
41 thirty-five one hundredths of one percent additional severance tax imposed by the state for the
42 benefit of counties and municipalities as provided in section six of this article.

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

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

49 (g)(1) *Termination and expiration of the behavioral health severance and business*
50 *privilege tax.* — The tax imposed upon providers of health care services under the provisions of
51 this article shall expire, terminate and cease to be imposed with respect to privileges exercised
52 on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any
53 person from payment of any tax imposed with respect to privileges exercised before the expiration
54 date.

55 (2) *Refunds made.* — The Tax Commissioner will issue a requisition on the treasury for
56 any amount finally, administratively or judicially determined to be an overpayment of the tax
57 terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any
58 refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the
59 Treasurer shall pay the warrant out of the fund into which the amount refunded was originally
60 paid.

NOTE: The purpose of this bill is to change the severance tax on limestone, sandstone
and other mined stone products from a percentage of the sales price to a flat rate.

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