

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 396

BY SENATORS SYPOLT, AZINGER, BLAIR, BOSO, SMITH

AND SWOPE

[Introduced February 22, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §54-2-14b, relating to setting forth how minerals are to be valued in eminent
 3 domain actions.

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 §54-2-14b, to read as follows:

ARTICLE 2. PROCEDURE.

§54-2-14b. Valuation of minerals.

1 When coal, oil or natural gas is taken pursuant to an eminent domain proceeding the value
 2 of those minerals is to be determined by also taking into consideration their mining, production,
 3 excavation and marketing costs. The value of other minerals, such as limestone, gravel, rock,
 4 sand, chalk and all other similar near-surface minerals, are to be valued as part of the surface
 5 estate. However, all other similar near-surface minerals that are specifically excepted and
 6 reserved from the surface estate by deed are to be valued as they may be present in commercial
 7 quantities.

NOTE: The purpose of this bill is to clarify that coal, oil and natural gas will continue to be paid for if they are removed or covered or paved over as part of a public use taking under eminent domain. The bill also clarifies that near-surface minerals, not specifically excepted and reserved by deed, will be compensated for as part of the surface estate, when they exist in commercial quantities.

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