

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4213

FISCAL  
NOTE

BY DELEGATES PHILLIPS, BLAIR, CRISS, LANE,  
MCGEEHAN, MARCUM, GEARHEART AND MAYNARD

[Introduced January 19, 2018; 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,  
 2 reducing the severance tax on coal to two percent; making it effective March 31, 2018.

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

**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.* — Subject to the provisions of subsection (g) of this section,  
 7 the tax imposed in subsection (a) of this section shall be five percent of the gross value of the  
 8 natural resource produced or the health care service provided, as shown by the gross income  
 9 derived from the sale or furnishing thereof by the producer or the provider of the health care  
 10 service, except as otherwise provided in this article: Provided, That effective March 31, 2018, the  
 11 tax rate imposed by this subsection on the gross value of coal produced is two percent. In the  
 12 case of coal, ~~this five percent~~ the rate of tax includes the thirty-five one hundredths of one percent  
 13 additional severance tax on coal imposed by the state for the benefit of counties and municipalities  
 14 as provided in §11-13A-6 of this code.

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

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

20 services in this state as enumerated in subsection (c) of this section and shall be in addition to all  
21 other taxes imposed by law.

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

26 (f) *Reduction of severance tax rate.* — For tax years beginning after April 11, 1997, any  
27 person exercising the privilege of engaging within this state in the business of severing coal for  
28 the purposes provided in subsection (a) of this section shall be allowed a reduced rate of tax on  
29 coal mined by underground methods in accordance with the following:

30 (1) For coal mined by underground methods from seams with an average thickness of  
31 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be  
32 two percent of the gross value of the coal produced. For coal mined by underground methods  
33 from seams with an average thickness of less than thirty-seven inches, the tax imposed in  
34 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross  
35 value is determined from the sale of the mined coal by the producer. This rate of tax includes the  
36 thirty-five one hundredths of one percent additional severance tax imposed by the state for the  
37 benefit of counties and municipalities as provided in §11-13A-6 of this code.

38 (2) This reduced rate of tax applies to any new underground mine producing coal after  
39 April 11, 1997, from seams of less than forty-five inches in average thickness or any existing mine  
40 that has not produced coal from seams forty-five inches or less in thickness in the one hundred  
41 eighty days immediately preceding the effective date of this subsection.

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

44 (g)(1) *Termination and expiration of the behavioral health severance and business*  
45 *privilege tax.* — The tax imposed upon providers of health care services under the provisions of

46 this article shall expire, terminate and cease to be imposed with respect to privileges exercised  
47 on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any  
48 person from payment of any tax imposed with respect to privileges exercised before the expiration  
49 date.

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

NOTE: The purpose of this bill is to reduce the severance tax on coal to two percent. The bill makes the effective March 31, 2018.

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