WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 134

BY SENATOR OJEDA

[Introduced January 9, 2019; Referred

to the Committee on Banking and Insurance; and then to

the Committee on Finance]

A BILL to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended, relating to stabilizing Public Employees Insurance Agency benefits; increasing the severance tax on natural gas; dedicating a portion of the increased severance tax on natural gas to the benefit of public employee and retiree health care; creating a special revenue revolving fund account entitled the PEIA Fund that is interest-bearing; requiring the increase in the severance tax on natural gas to be deposited into the PEIA Fund; requiring the funds in the PEIA Fund to be used to reduce or maintain deductibles and premiums; and prohibiting expenditures from the PEIA Fund to be used in the calculation of premium cost-sharing.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil; Tax Commissioner to develop a uniform reporting form.

(a) *Imposition of tax.* -- For the privilege of engaging or continuing within this state in the business of severing natural gas or oil for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax: *Provided,* That effective for all taxable periods beginning on or after January 1, 2000, there is an exemption from the imposition of the tax provided in this article on the following: (1) Free natural gas provided to any surface owner; (2) natural gas produced from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period; (3) oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and (4) for a maximum period of 10 years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil.

(b) *Rate and measure of tax.* -- The tax imposed in subsection (a) of this section shall be five percent of the gross value of the natural gas or oil produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided,* That effective July 1, 2019, the tax imposed in subsection (a) of this section shall be seven and one half percent of the gross value of the natural gas produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article, and one-third of the total severance tax on natural gas collected shall be dedicated to public employee and retiree health care coverage under the Public Employees Insurance Agency by placing it into a special revenue revolving fund account called the PEIA Fund which is hereby created in the State Treasury as an interest-bearing account. This diversion of one third of the total severance tax on natural gas shall occur prior to the distributions detailed in §11-13A-5a of this code. The funds contained in the PEIA Fund shall be used to reduce or maintain deductibles and premiums for those enrolled with the Public Employees Insurance Agency. Funds expended from the PEIA Fund may not enter into the calculation of the aggregate premium cost-sharing percentages between employers and employees as set out in §5-15-5 of this code.

(c) *Tax in addition to other taxes.* -- The tax imposed by this section shall apply to all persons severing gas or oil in this state, and shall be in addition to all other taxes imposed by law.

(d)(1) The Legislature finds that in addition to the production reports and financial records which must be filed by oil and gas producers with the State Tax Commissioner in order to comply with this section, oil and gas producers are required to file other production reports with other agencies, including, but not limited to, the office of oil and gas, the Public Service Commission and county assessors. The reports required to be filed are largely duplicative, the compiling of the information in different formats is unnecessarily time consuming and costly, and the filing of one report or the sharing of information by agencies of government would reduce the cost of compliance for oil and gas producers.

(2) On or before July 1, 2003, the Tax Commissioner shall design a common form that

may be used for each of the reports regarding production that are required to be filed by oil and gas producers, which form shall readily permit a filing without financial information when such information is unnecessary. The commissioner shall also design such forms so as to permit filings in different formats, including, but not limited to, electronic formats.

(3) Effective July 1, 2006, this subsection shall have no force or effect.

NOTE: The purpose of this bill is to fully fund and fix PEIA. The bill increases the severance tax on natural gas and dedicates a portion of the increased severance tax on natural gas to the benefit of public employee and retiree health care; creating a special revenue revolving fund account entitled the PEIA Fund that is interest-bearing. The bill requires the increase in the severance tax on natural gas to be deposited into the PEIA Fund and that the funds in the PEIA Fund to be used to reduce or maintain deductibles and premiums. The bill also prohibits expenditures from the PEIA Fund to be used in the calculation of premium cost-sharing.

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