

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2810

BY DELEGATES ANDERSON AND EVANS

[Introduced March 01, 2021; Referred to the
Committee on Energy and Manufacturing then
Finance]

1 A BILL to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended,
 2 relating to the removal of the severance tax on oil and gas produced from low producing
 3 oil and natural gas wells below a specific production level.

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.

1 (a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the
 2 business of severing natural gas or oil for sale, profit or commercial use, there is levied and shall
 3 be collected from every person exercising the privilege an annual privilege tax at the rate and
 4 measure provided in subsection (b) of this section: *Provided*, That effective for all taxable periods
 5 beginning on or after January 1, 2000, there is an exemption from the imposition of the tax
 6 provided in this article on the following: (1) Free natural gas provided to any surface owner; (2)
 7 natural gas produced from any well which produced an average of less than 5,000 cubic feet of
 8 natural gas per day during the calendar year immediately preceding a given taxable period; (3)
 9 for all taxable periods beginning on or after January 1, 2021, natural gas produced from any well
 10 which produced an average of less than 15,000 cubic feet of natural gas per day during the
 11 calendar year immediately preceding a given taxable period; (4) oil produced from any oil well
 12 which produced an average of less than one-half barrel of oil per day during the calendar year
 13 immediately preceding a given taxable period; ~~and (4)~~ (5) for all taxable periods beginning on or
 14 after January 1, 2021, oil produced from any well which produced an average of less than two
 15 and one-half barrels of oil per day during the calendar year immediately preceding a given taxable
 16 period; and (6) for a maximum period of 10 years, all natural gas or oil produced from any well
 17 which has not produced marketable quantities of natural gas or oil for five consecutive years
 18 immediately preceding the year in which a well is placed back into production and thereafter
 19 produces marketable quantities of natural gas or oil.

20 (b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five

21 percent of the gross value of the natural gas or oil produced by the producer as shown by the
22 gross proceeds derived from the sale thereof by the producer, except as otherwise provided in
23 this article: *Provided*, That effective for taxable periods beginning on or after January 1, 2020:

24 (1) For all natural gas produced from any well which produced an average in excess of
25 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given
26 taxable year, and for oil produced from any well which produced an average in excess of 10
27 barrels of oil per day, during the calendar year immediately preceding the beginning date of a
28 given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil
29 produced as shown by the gross proceeds derived from the sale thereof by the producer;

30 (2) For all natural gas produced from any well, excluding wells utilizing horizontal drilling
31 techniques targeting shale formations, which produced an average between 5,000 cubic feet of
32 natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year
33 immediately preceding the beginning date of a given taxable year, and for oil produced from any
34 well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which
35 produced an average between one-half barrel per day and 10 barrels per day, during the calendar
36 year immediately preceding the beginning date of a given taxable year, the rate of tax is two and
37 five tenths percent of the gross value of the natural gas or oil produced as shown by the gross
38 proceeds derived from the sale thereof by the producer; and

39 (3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting
40 shale formations, which produced an average between 5,000 cubic feet of natural gas per day
41 and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the
42 beginning date of a given taxable year, and for oil produced from wells utilizing horizontal drilling
43 techniques targeting shale formations, which produced an average between one-half barrel per
44 day and 10 barrels per day, during the calendar year immediately preceding the beginning date
45 of a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil
46 produced as shown by the gross proceeds derived from the sale thereof by the producer.

47 (c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons
48 severing gas or oil in this state, and is in addition to all other taxes imposed by law.

49 ~~(d) For purposes of this section, in determining the average amount of production of gas
50 and oil in any given calendar year, a taxpayer must calculate the actual production of such well
51 in the calendar year and divide the same by the number of days the well was in operation and
52 producing gas or oil in such calendar year.~~

53 ~~(e) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the
54 tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are
55 dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this
56 code: *Provided*, That if on June 1, 2023, or on June 1 of any year thereafter, there exists in the
57 Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6
58 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is
59 reduced to zero for the taxable year beginning on and after the next succeeding January 1. The
60 Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the
61 balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant
62 to this subsection~~

NOTE: The purpose of this bill is to remove the severance tax on oil and gas produced from low producing wells.

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