

H. B. 2675

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[Introduced February 10, 2015; referred to the
Committee on Finance.]

A BILL to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended, relating to reducing certain severance taxes that are dedicated to the Workers' Compensation Debt Reduction Fund, beginning after June 30, 2015.

Be it enacted by the Legislature of West Virginia:

That §11-13V-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.

§11-13V-4. Imposition of tax.

- 1 (a) *Imposition of additional tax on privilege of severing*
- 2 *coal.* — Upon every person exercising the privilege of engaging

3 within this state in severing, extracting, reducing to possession
4 or producing coal for sale, profit or commercial use, there is
5 ~~hereby~~ imposed an additional annual severance tax for
6 exercising the privilege after November 30, 2005. The tax ~~shall~~
7 ~~be~~ is \$.56 per ton and the measure of the tax is tons of clean coal
8 severed or produced in this state by the taxpayer after November
9 30, 2005, for sale, profit or commercial use during the taxable
10 year: Provided, That the tax is \$.50 per ton and the measure of
11 the tax is tons of clean coal severed or produced in this state by
12 the taxpayer after June 30, 2015, for sale, profit or commercial
13 use during the taxable year. When the person mining the coal
14 sells raw coal, the measure of tax shall be ton of clean coal
15 determined in accordance with rules promulgated by the Tax
16 Commissioner as provided in article three, chapter twenty-nine-a
17 of this code. ~~If this rule is filed for public comment before July~~
18 ~~1, 2005, the rule may be promulgated as an emergency~~
19 ~~legislative rule.~~ This tax ~~shall be~~ is in addition to all taxes
20 imposed with respect to the severance and production of coal in
21 this state including, but not limited to, the taxes imposed by
22 articles twelve-d and thirteen-a of this chapter and the taxes

23 imposed by sections eleven and thirty-two, article three, chapter
24 twenty-two of this code, if applicable.

25 (b) *Imposition of additional tax on privilege of severing*
26 *natural gas.* — For the privilege of engaging or continuing
27 within this state in the business of severing natural gas for sale,
28 profit or commercial use, there is ~~hereby~~ levied and shall be
29 collected from every person exercising this privilege an
30 additional annual privilege tax. The rate of this additional tax
31 shall be \$.047 per mcf of natural gas and the measure of the tax
32 is natural gas produced after November 30, 2005, determined at
33 the point where the production privilege ends for purposes of the
34 tax imposed by section three-a, article thirteen-a of this chapter,
35 and with respect to which the tax imposed by section three-a of
36 ~~said~~ article thirteen-a is paid: Provided, That the rate of this
37 additional tax shall be \$.042 per mcf of natural gas and the
38 measure of the tax is natural gas produced after June 30, 2015,
39 determined at the point where the production privilege ends for
40 purposes of the tax imposed by section three-a, article thirteen-a
41 of this chapter, and with respect to which the tax imposed by
42 section three-a of article thirteen-a is paid. The additional tax

43 imposed by this subsection shall be collected with respect to
44 natural gas produced after November 30, 2005.

45 (c) *Imposition of additional tax on privilege of severing*
46 *timber.* — For the privilege of engaging or continuing within this
47 state in the business of severing timber for sale, profit or
48 commercial use, there is hereby levied and shall be collected
49 from every person exercising this privilege an additional annual
50 privilege tax equal to two and seventy-eight hundredths percent
51 of the gross value of the timber produced, determined at the
52 point where the production privilege ends for purposes of the tax
53 imposed by section three-b, article thirteen-a of this chapter and
54 upon which the tax imposed by section three-b of ~~said~~ article
55 thirteen-a is paid: Provided, That after June 30, 2015, for the
56 privilege of engaging or continuing within this state in the
57 business of severing timber for sale, profit or commercial use,
58 there is levied and shall be collected from every person
59 exercising this privilege an additional annual privilege tax equal
60 to two and four tenths percent of the gross value of the timber
61 produced, determined at the point where the production privilege
62 ends for purposes of the tax imposed by section three-b, article

63 thirteen-a of this chapter and upon which the tax imposed by
64 section three-b of article thirteen-a is paid. The additional tax
65 imposed by this subsection shall be collected with respect to
66 timber produced after November 30, 2005: *Provided*, That
67 during the period of discontinuance of the tax as provided in
68 subsection (d), section three-b, article thirteen-a of this chapter,
69 the additional tax imposed by this subsection shall be determined
70 as provided in this subsection in the same manner as if the tax
71 described under section three-b, article thirteen-a of this chapter
72 is being imposed and collected, subject to the provisions of
73 subsection (g) of this section.

74 (d) *No pyramiding of tax burden.* — Each ton of coal and
75 each mcf of natural gas severed in this state after the effective
76 date of the taxes imposed by this section shall be included in the
77 measure of a tax imposed by this section only one time.

78 (e) *Effect on utility rates.* — The Public Service Commission
79 shall, upon the application of any public utility that, as of the
80 effective date of the taxes imposed by this section, is not
81 currently making periodic adjustments to its approved rates and
82 charges to reflect changes in its fuel costs because the

83 mechanism historically used to make such periodic adjustments
84 is suspended by an order of the commission, allow such utility
85 to defer, for future recovery from its customers, any increase in
86 its costs attributable to the taxes imposed by this section upon:
87 Coal and natural gas severed in this state and utilized in the
88 production of electricity generated or produced in this state and
89 sold to customers in this state; coal and natural gas severed in
90 this state and utilized in the production of electricity not
91 generated or produced in this state that is sold to customers in
92 this state; and natural gas severed in this state that is sold to
93 customers in this state.

94 (f) *Dedication of new taxes.* — The net amount of all
95 moneys received by the Tax Commissioner from collection of
96 the taxes imposed by this section, including any interest,
97 additions to tax, or penalties collected with respect to these taxes
98 pursuant to article ten, chapter eleven of this code, shall be
99 deposited in the Workers' Compensation Debt Reduction Fund
100 created in article two-d, chapter twenty-three of this code. As
101 used in this section, “net amount of all taxes received by the Tax
102 Commissioner” means the gross amount received by the Tax

103 Commissioner less the amount of any refunds paid for
104 overpayment of the taxes imposed by this article, including the
105 amount of any interest on the overpayment amount due the
106 taxpayer under the provisions of section fourteen, article ten of
107 this chapter.

108 (g) *Sunset expiration date of taxes.* — The new taxes
109 imposed by this section shall expire and not be imposed with
110 respect to privileges exercised on and after the first day of the
111 month following the month in which the Governor certifies to
112 the Legislature that ~~(1) The revenue bonds issued pursuant to~~
113 ~~article two-d, chapter twenty-three of this code, have been~~
114 ~~retired, or payment of the debt service provided for; and (2) that~~
115 an independent certified actuary has determined that the
116 unfunded liability of the old fund, as defined in chapter twenty-
117 three of this code, has been paid or provided for in its entirety.
118 Expiration of the taxes imposed in this section as provided in this
119 subsection shall not relieve any person from payment of any tax
120 imposed with respect to privileges exercised before the
121 expiration date.

NOTE: The purpose of this bill is to reduce the severance taxes imposed on coal, natural gas and timber for Workers' Compensation debt reduction purposes, beginning July 1, 2015.

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