

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2675

FISCAL
NOTE

2015 Carryover

(BY DELEGATES E. NELSON, HANSHAW, IRELAND, R.
SMITH, STORCH, R. PHILLIPS, B. WHITE, MCCUSKEY,
WAXMAN AND SUMMERS)

[Introduced January 13, 2016; referred to the
Committee on Finance.]

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

Be it enacted by the Legislature of West Virginia:

1 That §11-13V-4 of the Code of West Virginia, 1931, as amended, be amended and
 2 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 coal.* -- Upon every person
 2 exercising the privilege of engaging within this state in severing, extracting, reducing to
 3 possession or producing coal for sale, profit or commercial use, there is ~~hereby~~ imposed an
 4 additional annual severance tax for exercising the privilege after November 30, 2005. The tax
 5 ~~shall be~~ is \$.56 per ton and the measure of the tax is tons of clean coal severed or produced in
 6 this state by the taxpayer after November 30, 2005, for sale, profit or commercial use during the
 7 taxable year: Provided, That the tax is \$.50 per ton and the measure of the tax is tons of clean
 8 coal severed or produced in this state by the taxpayer after June 30, 2015, for sale, profit or
 9 commercial use during the taxable year. When the person mining the coal sells raw coal, the
 10 measure of tax shall be ton of clean coal determined in accordance with rules promulgated by the
 11 Tax Commissioner as provided in article three, chapter twenty-nine-a of this code. ~~If this rule is~~
 12 ~~filed for public comment before July 1, 2005, the rule may be promulgated as an emergency~~
 13 ~~legislative rule.~~ This tax ~~shall be~~ is in addition to all taxes imposed with respect to the severance
 14 and production of coal in this state including, but not limited to, the taxes imposed by articles
 15 twelve-d and thirteen-a of this chapter and the taxes imposed by sections eleven and thirty-two,
 16 article three, chapter twenty-two of this code, if applicable.

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

30 (c) *Imposition of additional tax on privilege of severing timber.* -- For the privilege of
31 engaging or continuing within this state in the business of severing timber for sale, profit or
32 commercial use, there is hereby levied and shall be collected from every person exercising this
33 privilege an additional annual privilege tax equal to two and seventy-eight hundredths percent of
34 the gross value of the timber produced, determined at the point where the production privilege
35 ends for purposes of the tax imposed by section three-b, article thirteen-a of this chapter and upon
36 which the tax imposed by section three-b of ~~said~~ article thirteen-a is paid: Provided, That after
37 June 30, 2015, for the privilege of engaging or continuing within this state in the business of
38 severing timber for sale, profit or commercial use, there is levied and shall be collected from every
39 person exercising this privilege an additional annual privilege tax equal to two and four tenths
40 percent of the gross value of the timber produced, determined at the point where the production

41 privilege ends for purposes of the tax imposed by section three-b, article thirteen-a of this chapter
42 and upon which the tax imposed by section three-b of article thirteen-a is paid. The additional
43 tax imposed by this subsection shall be collected with respect to timber produced after November
44 30, 2005: *Provided*, That during the period of discontinuance of the tax as provided in subsection
45 (d), section three-b, article thirteen-a of this chapter, the additional tax imposed by this subsection
46 shall be determined as provided in this subsection in the same manner as if the tax described
47 under section three-b, article thirteen-a of this chapter is being imposed and collected, subject to
48 the provisions of subsection (g) of this section.

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

52 (e) *Effect on utility rates.* -- The Public Service Commission shall, upon the application of
53 any public utility that, as of the effective date of the taxes imposed by this section, is not currently
54 making periodic adjustments to its approved rates and charges to reflect changes in its fuel costs
55 because the mechanism historically used to make such periodic adjustments is suspended by an
56 order of the commission, allow such utility to defer, for future recovery from its customers, any
57 increase in its costs attributable to the taxes imposed by this section upon: Coal and natural gas
58 severed in this state and utilized in the production of electricity generated or produced in this state
59 and sold to customers in this state; coal and natural gas severed in this state and utilized in the
60 production of electricity not generated or produced in this state that is sold to customers in this
61 state; and natural gas severed in this state that is sold to customers in this state.

62 (f) *Dedication of new taxes.* -- The net amount of all moneys received by the Tax
63 Commissioner from collection of the taxes imposed by this section, including any interest,
64 additions to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter

65 eleven of this code, shall be deposited in the Workers' Compensation Debt Reduction Fund
66 created in article two-d, chapter twenty-three of this code. As used in this section, "net amount
67 of all taxes received by the Tax Commissioner" means the gross amount received by the Tax
68 Commissioner less the amount of any refunds paid for overpayment of the taxes imposed by this
69 article, including the amount of any interest on the overpayment amount due the taxpayer under
70 the provisions of section fourteen, article ten of this chapter.

71 (g) *Sunset expiration date of taxes.* -- The new taxes imposed by this section shall expire
72 and not be imposed with respect to privileges exercised on and after the first day of the month
73 following the month in which the Governor certifies to the Legislature that ~~(1) The revenue bonds~~
74 ~~issued pursuant to article two-d, chapter twenty-three of this code, have been retired, or payment~~
75 ~~of the debt service provided for; and (2) that an independent certified actuary has determined that~~
76 the unfunded liability of the old fund, as defined in chapter twenty-three of this code, has been
77 paid or provided for in its entirety. Expiration of the taxes imposed in this section as provided in
78 this subsection shall not relieve any person from payment of any tax imposed with respect to
79 privileges exercised before the 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.