

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 110

**FISCAL
NOTE**

By Senator Garcia

[Introduced January 14, 2026; referred to
the Committee on the Judiciary; and then to the
Committee on Finance]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §23-4D-1, §23-4D-2, §23-4D-3, §23-4D-4, §23-4D-5, and §23-4D-6, relating to creating the West Virginia Black Lung Program; granting entitlement for pain and suffering for occupational pneumoconiosis; providing that 10 years' exposure as a miner is a conclusive presumption of entitlement to pain and suffering benefits; providing for calculation of benefits; setting forth tax credit for benefits; imposing additional severance tax and tax on generation of electricity by solar and wind devices; creating the State Black Lung Fund; requiring the Governor and Legislature to cooperate with other states to attempt to recoup the federal excise tax on coal; and requiring proposal of rules by the Insurance Commissioner and Tax Commissioner.

Be it enacted by the Legislature of West Virginia:

ARTICLE 4D. WEST VIRGINIA STATE BLACK LUNG PROGRAM.

§23-4D-1. Black lung program; rules.

Notwithstanding any other provision of this code to the contrary, a claim for pain and suffering for occupational pneumoconiosis shall be governed by this article. Beginning on July 1, 2026, the Insurance Commissioner shall propose rules for legislative approval, in accordance with §29A-3-1 et seq. of this code, to implement the purposes of this article and institute the West Virginia State Black Lung Program.

§23-4D-2. Presumption of black lung; 15 years' exposure.

(a) If it is shown that the claimant or deceased employee has been exposed to the hazards of inhaling minute particles of dust in the course of and resulting from his or her employment in West Virginia for a period of 10 years during the 15 years immediately preceding the date of his or her last exposure to such hazard and that the claimant or deceased employee has sustained a chronic respiratory disability, there is a presumption that the claimant is suffering or the deceased employee was suffering at the time of his or her death from occupational pneumoconiosis which arose out of and in the course of his or her employment. This presumption is conclusive for the

8 purpose of establishing an entitlement to pain and suffering.

9 (b) Once proof is provided to establish a miner's 15 years of exposure and presumptive
10 requirement that the miner has occupational pneumoconiosis or black lung, the claimant is entitled
11 to monetary benefits for pain and suffering alone. A total disability is not required to receive these
12 benefits and these benefits may be received in addition to any total disability award or federal
13 black lung benefits.

§23-4D-3. Calculation of benefits; claimants receiving federal benefits.

1 A claimant who has established exposure of 15 years is entitled to receive a monthly
2 payment of \$200. A claimant is also entitled to a monthly increase of \$15 for each year in addition
3 to the initial 15 years of exposure. A work year shall be calculated in terms of the number of hours
4 a claimant worked during a calendar year. For this purpose, 1000 hours shall be considered a full
5 work year. Any time less than 1000 hours in a calendar year shall be prorated when computing the
6 award of the monthly benefit.

§23-4D-4. Tax credit for benefits received under this article.

1 Claimants receiving benefits under this article are entitled to claim those benefits as a
2 credit against their state personal income tax. The Tax Commissioner shall propose rules for
3 legislative approval, in accordance with §29A-3-1 *et seq.* of this code, to implement this section.

§23-4D-5. Additional tax imposed on severance of natural resources; and generation of electricity by wind or solar devices.

1 In addition to the taxes imposed under §11-13A-1 *et seq.* of this code or in any other
2 chapter of this code, there is hereby levied and shall be collected from every person exercising the
3 privilege of severing, extracting, reducing to possession, and producing for sale, profit or
4 commercial use, coal, natural gas or oil, or for the generation of electricity by wind or solar devices
5 equal to one-tenth of the existing tax on each such person. The additional revenue generated by
6 these taxes shall be deposited into the "State Black Lung Fund" which is hereby created in the
7 general revenue account to be used exclusively to offset the cost of the Black Lung Program.

8 The Tax Commissioner shall propose rules for legislative approval, in accordance with
9 §29A-3-1 et seq. of this code, to implement this section.

§23-4D-6. Governor and Legislature to attempt to recoup current tax on coal.

1 The Governor and Legislature shall cooperate with other coal producing states in order to
2 attempt to recoup a portion of the current federal tax on coal as a means to offset the cost of the
3 black lung benefits under this article.

NOTE: The purpose of this bill is to create the West Virginia Black Lung Program and to grant entitlement for pain and suffering for occupational pneumoconiosis.

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