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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



ENROLLED

Com. Sub. 800
HOUSE BILL No. *2620*

(By Delegates *Kiss, Browning, Stator,*
Ashcraft, Campbell, Tattott and
Schaanover)

Passed *April 10,* 1993

In Effect *Ninty Days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2620

(By DELEGATES KISS, BROWNING, STATON, ASHCRAFT,
CAMPBELL, TALBOTT AND SCHOONOVER)

[Passed April 10, 1993; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requirements for budgeting additional tax on severance, extraction and production of coal; and removing or reducing certain budgetary restrictions.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE TAXES.

§11-13A-6. Additional tax on the severance, extraction and production of coal; dedication of additional tax for benefit of counties and municipalities; distribution of major portion of such additional tax to coal-producing counties; distribution of minor portion of such additional tax to all counties and municipalities; reports; rules and regulations; creation of special funds in office of state treasurer; method and formulas for

distribution of such additional tax; expenditure of funds by counties and municipalities for public purposes; creating special funds in counties and municipalities; and requiring special county and municipal budgets and reports thereon.

1 (a) *Additional coal severance tax.* — Upon every
2 person exercising the privilege of engaging or continu-
3 ing within this state in the business of severing coal, or
4 preparing coal (or both severing and preparing coal), for
5 sale, profit or commercial use, there is hereby imposed
6 an additional severance tax, the amount of which shall
7 be equal to the value of the coal severed or prepared (or
8 both severed and prepared), against which the tax
9 imposed by section three of this article is measured as
10 shown by the gross proceeds derived from the sale
11 thereof by the producer, multiplied by thirty-five one
12 hundredths of one percent. The tax imposed by this
13 subsection (a) shall be in addition to the tax imposed by
14 section three of this article, and this additional tax is
15 hereinafter in this section referred to as the “additional
16 tax on coal.”

17 (b) This additional tax on coal is imposed pursuant to
18 the provisions of section six-a, article ten of the West
19 Virginia constitution. Seventy-five percent of the net
20 proceeds of this additional tax on coal shall, after
21 appropriation thereof by the Legislature, be distributed
22 by the state treasurer in the manner hereinafter
23 specified, to the various counties of this state in which
24 the coal upon which this additional tax is imposed was
25 located at the time it was severed from the ground.
26 Those counties are hereinafter in this section referred
27 to as the “coal-producing counties.” The remaining
28 twenty-five percent of the net proceeds of this additional
29 tax on coal shall be distributed, after appropriation,
30 among all the counties and municipalities of this state
31 in the manner hereinafter specified.

32 (c) Such additional tax on coal shall be due and
33 payable, reported and remitted as elsewhere provided in
34 this article for the tax imposed by said section three of
35 this article, and all of the enforcement and other

36 provisions of this article shall apply to such additional
37 tax. In addition to the reports and other information
38 required under the provisions of this article and the
39 tonnage reports required to be filed under the provisions
40 of section seventy-two, article two, chapter twenty-two
41 of this code, the tax commissioner is hereby granted
42 plenary power and authority to promulgate reasonable
43 rules and regulations requiring the furnishing by
44 producers of such additional information as may be
45 necessary to compute the allocation required under the
46 provisions of subsection (f) of this section. The tax
47 commissioner is also hereby granted plenary power and
48 authority to promulgate such other reasonable rules and
49 regulations as may be necessary to implement the
50 provisions of this section: *Provided*, That notwithstand-
51 ing any language contained in this code to the contrary,
52 the gross amount of additional tax on coal collected
53 under this article shall be paid over and distributed
54 without the application of any credits against the tax
55 imposed by this section.

56 (d) In order to provide a procedure for the distribu-
57 tion of seventy-five percent of the net proceeds of such
58 additional tax on coal to such coal-producing counties,
59 there is hereby created in the state treasurer's office a
60 special fund to be known as the "county coal revenue
61 fund"; and in order to provide a procedure for the
62 distribution of the remaining twenty-five percent of the
63 net proceeds of such additional tax on coal to all counties
64 and municipalities of the state, without regard to coal
65 having been produced therein, there is also hereby
66 created in the state treasurer's office a special fund to
67 be known as the "all counties and municipalities revenue
68 fund."

69 Seventy-five percent of the net proceeds of such
70 additional tax on coal shall be deposited in the "county
71 coal revenue fund" and twenty-five percent of such net
72 proceeds shall be deposited in the "all counties and
73 municipalities revenue fund," from time to time, as such
74 proceeds are received by the tax commissioner. The
75 moneys in such funds shall, after appropriation thereof
76 by the Legislature, be distributed to the respective

77 counties and municipalities entitled thereto in the
78 manner set forth in subsection (e) of this section.

79 (e) The moneys in the "county coal revenue fund" and
80 the moneys in the "all counties and municipalities
81 revenue fund" shall be allocated among and distributed
82 quarterly to the counties and municipalities entitled
83 thereto by the state treasurer in the manner hereinafter
84 specified. On or before each distribution date, the state
85 treasurer shall determine the total amount of moneys in
86 each fund which will be available for distribution to the
87 respective counties and municipalities entitled thereto
88 on that distribution date. The amount to which a coal-
89 producing county is entitled from the "county coal
90 revenue fund" shall be determined in accordance with
91 subsection (f) of this section, and the amount to which
92 every county and municipality shall be entitled from the
93 "all counties and municipalities revenue fund" shall be
94 determined in accordance with subsection (g) of this
95 section. After determining as set forth in subsection (f)
96 and subsection (g) of this section the amount each county
97 and municipality is entitled to receive from the respec-
98 tive fund or funds, a warrant of the state auditor for the
99 sum due to such county or municipality shall issue and
100 a check drawn thereon making payment of such sum
101 shall thereafter be distributed to such county or
102 municipality.

103 (f) The amount to which a coal-producing county is
104 entitled from the "county coal revenue fund" shall be
105 determined by: (1) Dividing the total amount of moneys
106 in such fund then available for distribution by the total
107 number of tons of coal mined in this state during the
108 preceding quarter; and (2) multiplying the quotient thus
109 obtained by the number of tons of coal removed from
110 the ground in such county during the preceding quarter.

111 (g) The amount to which each county and municipal-
112 ity shall be entitled from the "all counties and munic-
113 ipalities revenue fund" shall be determined in accor-
114 dance with the provisions of this subsection. For
115 purposes of this subsection "population" shall mean the
116 population as determined by the most recent decennial
117 census taken under the authority of the United States:

118 (1) The treasurer shall first apportion the total
119 amount of moneys available in the "all counties and
120 municipalities revenue fund" by multiplying the total
121 amount in such fund by the percentage which the
122 population of each county bears to the total population
123 of the state. The amount thus apportioned for each
124 county shall be the county's "base share."

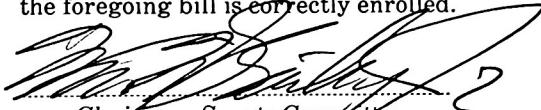
125 (2) Each county's "base share" shall then be subdivi-
126 ded into two portions. One portion shall be determined
127 by multiplying the "base share" by that percentage
128 which the total population of all unincorporated areas
129 within the county bears to the total population of the
130 county, and the other portion shall be determined by
131 multiplying the "base share" by that percentage which
132 the total population of all municipalities within the
133 county bears to the total population of the county. The
134 former portion shall be paid to the county and the latter
135 portion shall be the "municipalities' portion" of the
136 county's "base share." The percentage of such latter
137 portion to which each municipality in the county is
138 entitled shall be determined by multiplying the total of
139 such latter portion by the percentage which the
140 population of each municipality within the county bears
141 to the total population of all municipalities within the
142 county.

143 (h) All counties and municipalities shall create a "coal
144 severance tax revenue fund" which shall be the deposi-
145 tory for moneys distributed to any county or municipal-
146 ity under the provisions of this section, from either or
147 both special funds. Moneys in such "coal severance tax
148 revenue funds" may be expended by the county commis-
149 sion or governing body of the municipality for such
150 public purposes as the county commission or governing
151 body shall determine to be in the best interest of the
152 people of its respective county or municipality: *Provided*,
153 That in counties with population in excess of two
154 hundred thousand at least seventy-five percent of such
155 funds received from the county coal revenue fund shall
156 be apportioned to, and expended within the coal-
157 producing area or areas of the county, said coal-
158 producing areas of each county to be determined

159 generally by the state tax commissioner: *Provided,*
160 *however,* That a line item budgeted amount from the
161 current levy estimated for a county shall be funded at
162 fifty percent of the preceding year's expenditure from
163 the county general fund prior to the use of coal
164 severance tax revenue fund moneys for the same general
165 purpose: *Provided further,* That said coal severance tax
166 revenue fund moneys shall not be budgeted for personal
167 services in an amount to exceed one half of the total
168 funds available in such fund.

169 (i) The state tax commissioner shall retain for the
170 benefit of the state from the additional taxes on coal
171 collected the amount of thirty-five thousand dollars
172 annually as a fee for the administration of such
173 additional tax by the tax commissioner.

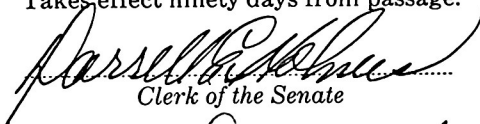
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


.....
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

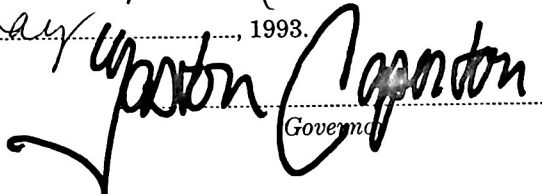

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker of the House of Delegates

The within *is disapproved* this the *7th*
day of *May*, 1993.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/29/93

Time 11:28 am