

Senate Bill No. 339

(By Senators Carmichael, D. Hall and Nohe)

[Introduced January 27, 2015; referred to the Committee on Energy, Industry and Mining; and

then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-13V-4 of the Code of West Virginia, 1931, as amended, relating to reducing the additional tax on privilege of severing coal, effective July 1, 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.

(a) Imposition of additional tax on privilege of severing coal. -- Upon every person exercising the privilege of engaging within this state in severing, extracting, reducing to possession or producing coal for sale, profit or commercial use, there is hereby imposed an additional annual severance tax for exercising the privilege after November 30, 2005. The tax shall be 56¢ per ton and the measure of the tax is tons of clean coal severed or produced in this state by the taxpayer after

1 November 30, 2005, for sale, profit or commercial use during the taxable year: Provided, That
2 beginning on July 1, 2015, the additional 56¢ per ton annual severance tax on coal imposed by this
3 subsection shall be reduced to 28¢ per ton. When the person mining the coal sells raw coal, the
4 measure of tax shall be ton of clean coal determined in accordance with rules promulgated by the
5 Tax Commissioner as provided in article three, chapter twenty-nine-a of this code. If this rule is filed
6 for public comment before July 1, 2005, the rule may be promulgated as an emergency legislative
7 rule. This tax shall be in addition to all taxes imposed with respect to the severance and production
8 of coal in this state including, but not limited to, the taxes imposed by articles twelve-d and thirteen-a
9 of this chapter and the taxes imposed by sections eleven and thirty-two, article three, chapter
10 twenty-two of this code, if applicable.

11 (b) Imposition of additional tax on privilege of severing natural gas. -- For the privilege of
12 engaging or continuing within this state in the business of severing natural gas for sale, profit or
13 commercial use, there is hereby levied and shall be collected from every person exercising this
14 privilege an additional annual privilege tax. The rate of this additional tax shall be 4.7¢ per mcf of
15 natural gas and the measure of the tax is natural gas produced after November 30, 2005, determined
16 at the point where the production privilege ends for purposes of the tax imposed by section three-a,
17 article thirteen-a of this chapter, and with respect to which the tax imposed by section three-a of said
18 article thirteen-a is paid. The additional tax imposed by this subsection shall be collected with
19 respect to natural gas produced after November 30, 2005.

20 (c) Imposition of additional tax on privilege of severing timber. -- For the privilege of
21 engaging or continuing within this state in the business of severing timber for sale, profit or

1 commercial use, there is hereby levied and shall be collected from every person exercising this
2 privilege an additional annual privilege tax equal to two and seventy-eight hundredths percent of the
3 gross value of the timber produced, determined at the point where the production privilege ends for
4 purposes of the tax imposed by section three-b, article thirteen-a of this chapter and upon which the
5 tax imposed by section three-b of said article thirteen-a is paid. The additional tax imposed by this
6 subsection shall be collected with respect to timber produced after November 30, 2005: *Provided,*
7 That during the period of discontinuance of the tax as provided in subsection (d), section three-b,
8 article thirteen-a of this chapter, the additional tax imposed by this subsection shall be determined
9 as provided in this subsection in the same manner as if the tax described under section three-b, article
10 thirteen-a of this chapter is being imposed and collected, subject to the provisions of subsection (g)
11 of this section.

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

15 (e) Effect on utility rates. -- The Public Service Commission shall, upon the application of
16 any public utility that, as of the effective date of the taxes imposed by this section, is not currently
17 making periodic adjustments to its approved rates and charges to reflect changes in its fuel costs
18 because the mechanism historically used to make ~~such~~ the periodic adjustments is suspended by an
19 order of the commission, allow ~~such~~ the utility to defer, for future recovery from its customers, any
20 increase in its costs attributable to the taxes imposed by this section upon: Coal and natural gas
21 severed in this state and utilized in the production of electricity generated or produced in this state

1 and sold to customers in this state; coal and natural gas severed in this state and utilized in the
2 production of electricity not generated or produced in this state that is sold to customers in this state;
3 and natural gas severed in this state that is sold to customers in this state.

4 (f) Dedication of new taxes. -- The net amount of all moneys received by the Tax
5 Commissioner from collection of the taxes imposed by this section, including any interest, additions
6 to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this
7 code, shall be deposited in the Workers' Compensation Debt Reduction Fund created in article two-d,
8 chapter twenty-three of this code. As used in this section, "net amount of all taxes received by the
9 Tax Commissioner" means the gross amount received by the Tax Commissioner less the amount of
10 any refunds paid for overpayment of the taxes imposed by this article, including the amount of any
11 interest on the overpayment amount due the taxpayer under the provisions of section fourteen, article
12 ten of this chapter.

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

NOTE: The purpose of this bill is to reduce the additional tax on coal effective July 1, 2015.

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