

# **WEST VIRGINIA LEGISLATURE**

**2016 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4668**

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[Passed on March 12, 2016; in effect July 1, 2016]

1 A BILL to amend and reenact §11-13A-6 of the Code of West Virginia, 1931, as amended, relating  
2 to raising the allowable threshold of the coal severance tax revenue fund budgeted for  
3 personal services from one fourth to one half; and directing State Auditor report of county  
4 special budgets to Joint Committee on Government and Finance.

*Be it enacted by the Legislature of West Virginia:*

1 That §11-13A-6 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.**

**§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;  
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; special funds in counties and municipalities; and requiring special  
county and municipal budgets and reports thereon.**

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

10 (b) This additional tax on coal is imposed pursuant to the provisions of section six-a, article

11 ten of the West Virginia Constitution. Seventy-five percent of the net proceeds of this additional  
12 tax on coal shall be distributed by the State Treasurer in the manner specified in this section to  
13 the various counties of this state in which the coal upon which this additional tax is imposed was  
14 located at the time it was severed from the ground. Those counties are referred to in this section  
15 as the "coal-producing counties". The remaining twenty-five percent of the net proceeds of this  
16 additional tax on coal shall be distributed among all the counties and municipalities of this state  
17 in the manner specified in this section.

18 (c) The additional tax on coal shall be due and payable, reported and remitted as  
19 elsewhere provided in this article for the tax imposed by section three of this article, and all of the  
20 enforcement and other provisions of this article shall apply to the additional tax. In addition to the  
21 reports and other information required under the provisions of this article and the tonnage reports  
22 required to be filed under the provisions of section seventy-seven, article two, chapter twenty-  
23 two-a of this code, the Tax Commissioner is hereby granted plenary power and authority to  
24 promulgate reasonable rules requiring the furnishing by producers of such additional information  
25 as may be necessary to compute the allocation required under the provisions of subsection (f) of  
26 this section. The Tax Commissioner is also hereby granted plenary power and authority to  
27 promulgate such other reasonable rules as may be necessary to implement the provisions of this  
28 section: *Provided*, That notwithstanding any language contained in this code to the contrary, the  
29 gross amount of additional tax on coal collected under this article shall be paid over and distributed  
30 without the application of any credits against the tax imposed by this section.

31 (d) In order to provide a procedure for the distribution of seventy-five percent of the net  
32 proceeds of the additional tax on coal to the coal-producing counties, the special fund known as  
33 the "county coal revenue fund" established in the State Treasurer's office by chapter one hundred  
34 sixty-two, Acts of the Legislature, 1985 regular session, as amended and reenacted in subsequent  
35 acts of the Legislature, is hereby continued. In order to provide a procedure for the distribution of  
36 the remaining twenty-five percent of the net proceeds of the additional tax on coal to all counties

37 and municipalities of the state, without regard to coal having been produced therein, the special  
38 fund known as the "all counties and municipalities revenue fund" established in the State  
39 Treasurer's office by chapter one hundred sixty-two, acts of the Legislature, 1985 regular session,  
40 as amended and reenacted in subsequent acts of the Legislature, is hereby redesignated as the  
41 "all counties and municipalities coal revenue fund" and is hereby continued.

42         Seventy-five percent of the net proceeds of such additional tax on coal shall be deposited  
43 in the county coal revenue fund and twenty-five percent of the net proceeds shall be deposited in  
44 the all counties and municipalities coal revenue fund, from time to time, as the proceeds are  
45 received by the Tax Commissioner. The moneys in the funds shall be distributed to the respective  
46 counties and municipalities entitled to the moneys in the manner set forth in subsection (e) of this  
47 section.

48         (e) The moneys in the county coal revenue fund and the moneys in the all counties and  
49 municipalities coal revenue fund shall be allocated among and distributed quarterly to the counties  
50 and municipalities entitled to the moneys by the State Treasurer in the manner specified in this  
51 section. On or before each distribution date, the State Treasurer shall determine the total amount  
52 of moneys in each fund which will be available for distribution to the respective counties and  
53 municipalities entitled to the moneys on that distribution date. The amount to which a coal-  
54 producing county is entitled from the county coal revenue fund shall be determined in accordance  
55 with subsection (f) of this section, and the amount to which every county and municipality is  
56 entitled from the all counties and municipalities coal revenue fund shall be determined in  
57 accordance with subsection (g) of this section. After determining as set forth in subsection (f) and  
58 subsection (g) of this section the amount each county and municipality is entitled to receive from  
59 the respective fund or funds, a warrant of the State Auditor for the sum due to each county or  
60 municipality shall issue and a check drawn thereon making payment of such amount shall  
61 thereafter be distributed to each such county or municipality.

62         (f) The amount to which a coal-producing county is entitled from the county coal revenue

63 fund shall be determined by: (1) Dividing the total amount of moneys in the fund then available  
64 for distribution by the total number of tons of coal mined in this state during the preceding quarter;  
65 and (2) multiplying the quotient thus obtained by the number of tons of coal removed from the  
66 ground in the county during the preceding quarter.

67 (g) The amount to which each county and municipality is entitled from the all counties and  
68 municipalities coal revenue fund shall be determined in accordance with the provisions of this  
69 subsection. For purposes of this subsection "population" means the population as determined by  
70 the most recent decennial census taken under the authority of the United States:

71 (1) The Treasurer shall first apportion the total amount of moneys available in the all  
72 counties and municipalities coal revenue fund by multiplying the total amount in the fund by the  
73 percentage which the population of each county bears to the total population of the state. The  
74 amount thus apportioned for each county is the county's "base share".

75 (2) Each county's base share shall then be subdivided into two portions. One portion is  
76 determined by multiplying the base share by that percentage which the total population of all  
77 unincorporated areas within the county bears to the total population of the county, and the other  
78 portion is determined by multiplying the base share by that percentage which the total population  
79 of all municipalities within the county bears to the total population of the county. The former portion  
80 shall be paid to the county and the latter portion is the "municipalities' portion" of the county's  
81 base share. The percentage of the latter portion to which each municipality in the county is entitled  
82 shall be determined by multiplying the total of the latter portion by the percentage which the  
83 population of each municipality within the county bears to the total population of all municipalities  
84 within the county.

85 (h) All counties and municipalities shall create a "coal severance tax revenue fund" which  
86 shall be the depository for moneys distributed to any county or municipality under the provisions  
87 of this section, from either or both special funds. Moneys in the coal severance tax revenue fund,  
88 in compliance with subsection (i) of this section, may be expended by the county commission or

89 governing body of the municipality for such public purposes as the county commission or  
90 governing body shall determine to be in the best interest of the people of its respective county or  
91 municipality: *Provided*, That in counties with population in excess of two hundred thousand, at  
92 least seventy-five percent of the funds received from the county coal revenue fund shall be  
93 apportioned to, and expended within the coal-producing area or areas of the county, said coal-  
94 producing areas of each county to be determined generally by the State Tax Commissioner:  
95 *Provided, however*, That the coal severance tax revenue fund moneys shall not be budgeted for  
96 personal services in an amount to exceed one half of the total funds available in such fund.

97 (i) On or before March 28, 1986, and each March 28 thereafter, each county commission  
98 or governing body of a municipality receiving such revenue shall submit to the State Auditor on  
99 forms provided by the State Auditor a special budget, detailing how such revenue is to be spent  
100 during the subsequent fiscal year. Such budget shall be followed in expending the revenue unless  
101 a subsequent budget is approved by the State Tax Commissioner. All unexpended balances  
102 remaining in coal severance tax revenue fund at the close of a fiscal year shall be reappropriated  
103 to the budget of the county commission or governing body for the subsequent fiscal year. The  
104 reappropriation shall be entered as an amendment to the new budget and submitted to the Tax  
105 Commissioner on or before July 15, of the current budget year.

106 (j) On or before December 15, 1986, and each December 15 thereafter, the State Auditor  
107 shall deliver to the clerk of the Joint Committee on Government and Finance, a consolidated  
108 report of the special budgets, created by subsection (i) of this section, for all county commissions  
109 and municipalities as of July 15, of the current year.

110 (k) The State Tax Commissioner shall retain for the benefit of the state from the additional  
111 taxes on coal collected the amount of \$35,000 annually as a fee for the administration of such  
112 additional tax by the Tax Commissioner.