

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 3050**

BY DELEGATE MAYNARD

[Introduced March 14, 2017; Referred  
to the Committee on Political Subdivisions the  
Finance.]

1 A BILL to amend and reenact §11-13A-3 of the Code of West Virginia, 1931, as amended, relating  
2 to creating a special revenue account for each county in the State of West Virginia for coal  
3 severance taxes; and making the funds in the special revenue account exclusively  
4 available for use by county governments.

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

1 That §11-13A-3 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-3. Imposition of tax on privilege of severing coal, limestone or sandstone, or  
furnishing certain health care services, effective dates therefor; reduction of  
severance rate for coal mined by underground methods based on seam thickness.**

1 (a) *Imposition of tax.* — Upon every person exercising the privilege of engaging or  
2 continuing within this state in the business of severing, extracting, reducing to possession and  
3 producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of  
4 furnishing certain health care services, there is hereby levied and shall be collected from every  
5 person exercising such privilege an annual privilege tax.

6 (b) *Rate and measure of tax.* — Subject to the provisions of subsection (g) of this section,  
7 the tax imposed in subsection (a) of this section shall be five percent of the gross value of the  
8 natural resource produced or the health care service provided, as shown by the gross income  
9 derived from the sale or furnishing thereof by the producer or the provider of the health care  
10 service, except as otherwise provided in this article. In the case of coal, this five percent rate of  
11 tax includes the thirty-five one hundredths of one percent additional severance tax on coal  
12 imposed by the state for the benefit of counties and municipalities as provided in section six of  
13 this article.

14 (c) *“Certain health care services” defined.* — For purposes of this section, the term “certain  
15 health care services” means, and is limited to, behavioral health services.

16           (d) *Tax in addition to other taxes.* — The tax imposed by this section shall apply to all  
17 persons severing or processing, or both severing and processing, in this state natural resources  
18 enumerated in subsection (a) of this section and to all persons providing certain health care  
19 services in this state as enumerated in subsection (c) of this section and shall be in addition to all  
20 other taxes imposed by law.

21           (e) *Effective date.* — This section, as amended in 1993, shall apply to gross proceeds  
22 derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall  
23 apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds,  
24 shall be fully and completely preserved.

25           (f) *Reduction of severance tax rate.* — For tax years beginning after the effective date of  
26 this subsection, any person exercising the privilege of engaging within this state in the business  
27 of severing coal for the purposes provided in subsection (a) of this section shall be allowed a  
28 reduced rate of tax on coal mined by underground methods in accordance with the following:

29           (1) For coal mined by underground methods from seams with an average thickness of  
30 thirty-seven inches to forty-five inches, the tax imposed in subsection (a) of this section shall be  
31 two percent of the gross value of the coal produced. For coal mined by underground methods  
32 from seams with an average thickness of less than thirty-seven inches, the tax imposed in  
33 subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross  
34 value is determined from the sale of the mined coal by the producer. This rate of tax includes the  
35 thirty-five one hundredths of one percent additional severance tax imposed by the state for the  
36 benefit of counties and municipalities as provided in section six of this article.

37           (2) This reduced rate of tax applies to any new underground mine producing coal after the  
38 effective date of this subsection, from seams of less than forty-five inches in average thickness  
39 or any existing mine that has not produced coal from seams forty-five inches or less in thickness  
40 in the one hundred eighty days immediately preceding the effective date of this subsection.

41           (3) The seam thickness shall be based on the weighted average isopach mapping of

42 actual coal thickness by mine as certified by a professional engineer.

43 (g)(1) *Termination and expiration of the behavioral health severance and business*  
44 *privilege tax.* — The tax imposed upon providers of health care services under the provisions of  
45 this article shall expire, terminate and cease to be imposed with respect to privileges exercised  
46 on or after July 1, 2016. Expiration of the tax as provided in this subsection shall not relieve any  
47 person from payment of any tax imposed with respect to privileges exercised before the expiration  
48 date.

49 (2) *Refunds made.* — The Tax Commissioner will issue a requisition on the treasury for  
50 any amount finally, administratively or judicially determined to be an overpayment of the tax  
51 terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any  
52 refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the  
53 Treasurer shall pay the warrant out of the fund into which the amount refunded was originally  
54 paid.

55 (h) *Exclusive Use of Severance Funds by County Governments.* — Notwithstanding any  
56 other provision of this code to the contrary, taxes collected pursuant to this section shall be set  
57 aside in fifty-five separate special revenue accounts for each county in the State of West Virginia.  
58 Taxes collected pursuant to this section shall be directed into the special revenue account of the  
59 county where the resources that produced the severance taxes were extracted. The funds in each  
60 county's special revenue account shall be exclusively available for use by that county's  
61 government, to be withdrawn at the county government's discretion.

NOTE: The purpose of this bill is to create a special revenue account for each county in the State of West Virginia for coal severance taxes; and make the funds in the special revenue account exclusively available for use by county governments.

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