WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4438

FISCAL NOTE

By Delegates Storch, Fluharty, Canestraro and Ferro

[Introduced February 6, 2018; Referred to the Committee on Energy then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-5c, relating to reallocating and dedicating three percent of oil and gas severance tax revenues up to $20 million annually to the oil and gas producing counties of origin and their respective municipalities; establishing state and local oil and gas county reallocated severance tax funds and providing for distribution of the moneys to the county commissions and governing bodies of the municipalities by the State Treasurer; establishing amounts each oil and gas producing county and their respective municipalities are to receive; requiring the creation of local funds into which moneys are to be deposited; requiring moneys be expended solely for economic development projects and infrastructure projects; providing definitions; providing restrictions on the expenditure of moneys; providing duties of State Tax Commissioner; requiring report of expenditures to Joint Committee on Government and Finance; providing audits of distributed funds when authorized by the Joint Committee on Government and Finance; and authorizing legislative and emergency rules.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-5c. Reallocation and dedication of percentage of severance tax for benefit of oil and gas producing counties and their municipalities; permissible uses of distributed revenues; duties of State Treasurer and State Tax Commissioner; audits; rulemaking.

(a) The purpose of this section is to provide for the reallocation and dedication of a portion of the tax attributable to the severance of oil and gas imposed by §11-13A-3a of this code for the use and benefit of the various counties and their respective municipalities in which the oil and gas was located at the time it was severed from the ground.

(b) (1) Effective July 1, 2018, two percent of the tax attributable to the severance of oil and gas imposed by §11-13A-3a of this code shall be transferred to the county commissions of the oil and gas producing counties as provided in this section.

(2) Effective July 1, 2018, one percent of the tax attributable to the severance of oil and gas imposed by §11-13A-3a of this code shall be transferred to the governing bodies of municipalities within the oil and gas producing counties as provided in this section on a population pro rata basis.

(3) The proceeds dedicated in subdivisions (1) and (2) of this subsection may not exceed the sum of $20 million per year.

(c) The amounts of the tax dedicated in subsection (b) of this section shall be deposited, from time-to-time, into a special fund known as the Oil and Gas County and Municipality Reallocated Severance Tax Fund, which is hereby established in the State Treasury, as the proceeds are received by the State Tax Commissioner.

(d) The net proceeds of the deposits made into the Oil and Gas County and Municipality Reallocated Severance Tax Fund shall be allocated among and distributed quarterly to the oil and gas producing counties and their respective municipalities by the State Treasurer in the manner specified in this section. On or before each distribution date, the State Treasurer shall determine the total amount of moneys that will be available for distribution to the respective counties and municipalities entitled to the moneys on that distribution date. The amount to which an oil and gas producing county or municipality is entitled from the Oil and Gas County and Municipality Reallocated Severance Tax Fund shall be determined in accordance with subsection (e) of this section. After determining the amount each oil and gas producing county and municipality are entitled to receive from the fund, a warrant of the State Auditor for the sum due to each oil and gas producing county and municipality shall be issued and a check drawn thereon making payment of that amount to the oil and gas producing county and municipality by hand, mail, commercial delivery or electronic transmission.

(e) The amount to which an oil and gas producing county or municipality is entitled from the Oil and Gas County and Municipality Reallocated Severance Tax Fund shall be determined by:

(1) Dividing the total amount of moneys in the fund then available for distribution by the total number of barrels of oil and total number of cubic feet of gas produced in this state during the preceding quarter; and

(2) Multiplying the quotient thus obtained of each by number of barrels of oil and number of cubic feet of gas produced in the county or municipality during the preceding quarter.

(f) (1) No distribution made to a county or municipality under this section may be deposited into the county's or municipality's General Revenue Fund. The county commission of each county and the governing body of each municipality receiving a distribution under this section shall establish a special account to be known as the "(Name of County or Municipality) Oil and Gas County (or Municipality) Reallocated Severance Tax Fund" into which all distributions made to that county or municipality under this section shall be deposited.

(2) Moneys in the county's and municipality's oil and gas county reallocated severance tax funds shall be expended by the county commission and governing body of the municipality solely for economic development projects and infrastructure projects.

(3) For purposes of this section:

(A) "Economic development project" means a project in the state which is likely to foster economic growth and development in the area in which the project is developed for commercial, industrial, community improvement or preservation or other proper purposes.

(B) "Infrastructure project" means a project in the state which is likely to foster infrastructure improvements including, but not limited to, post-mining land use, water or wastewater facilities or a part thereof, storm water systems, steam, gas, telephone and telecommunications, broadband development, electric lines and installations, roads, bridges, railroad spurs, drainage and flood control facilities, industrial park development or buildings that promote job creation and retention.

(4) A county commission or governing body of a municipality may not expend any of the funds available in its oil and gas county and municipality reallocated severance tax fund for personal services, for the costs of issuing bonds or for the payment of bond debt service. Total funds available shall be directed to project development which may include the costs of architectural and engineering plans, site assessments, site remediation, specifications and surveys and other expenses necessary or incidental to determining the feasibility or practicability of an economic development project or infrastructure project.

(g) On or before December 31, 2019, and December 1 of each year thereafter, the county commission of each county and governing body of each municipality receiving a distribution of funds under this section shall deliver to the Joint Committee on Government and Finance a written report setting forth the specific projects for which those funds were expended during the preceding fiscal year, a detailed account of those expenditures and a showing that the expenditures were made for the purposes required by this section.

(h) An audit of funds distributed under this section may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no cost to the county commission audited.

(i) The State Tax Commissioner shall propose for legislative approval legislative rules pursuant to §29A-3-1 *et seq.* of this code for the administration of the provisions of this section, and is authorized to promulgate emergency rules for those purposes pursuant to that article.

NOTE: The purpose of this bill is to reallocate and dedicate three percent of oil and gas severance tax revenues up to $20 million annually to the oil and gas producing counties of origin and their respective municipalities. The bill establishes state and local oil and gas county reallocated severance tax funds and provides for distribution of the moneys to the county commissions and governing bodies of the municipalities by the State Treasurer. The bill establishes a procedure for determining the amounts each oil and gas producing county and their respective municipalities are to receive and requires the creation of local funds into which moneys are to be deposited. The bill requires the funds to be used solely for economic development projects and infrastructure projects. The bill also provides restrictions on fund expenditures. The bill sets forth duties of the State Tax Commissioner. The bill requires a report of expenditures to Joint Committee on Government and Finance. The bill also provides for audits of distributed funds when authorized by the Joint Committee on Government and Finance. The bill authorizes legislative and emergency rules.

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