WEST VIRGINIA LEGISLATURE

2019 FIRST EXTRAORDINARY SESSION

ENGROSSED

House Bill 207

By Delegates Hanshaw (Mr. Speaker) and Miley

by Request of the Executive

[Introduced July 22, 2019; Referred

to the Committee on Finance.]

1   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

2   designated §11-13-2q, relating to exempting from business and occupation tax certain

3   merchant power plants; defining merchant power plant; specifying conditions for

4   exemption from tax; and specifying effective date.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-2q. Exemption from tax for certain merchant power plants.

1   (a) *Exemption*. — Notwithstanding the provisions of §11-13-2o of this code, for taxable

2   years, or portions thereof, beginning on or after January 1, 2020, a merchant power plant is

3   exempt from the business and occupation tax imposed by §11-13-2o of this code on the

4   generating capacity of its generating units located in this state that are owned or leased by the

5   taxpayer and used to generate electricity. When the January 1, 2020, date falls during a taxpayer's

6   taxable year, the tax liability for that year shall be prorated based upon the number of months

7   before and the number of months beginning on and after January 1, 2020, in that taxable year.

8   (b) *Definition*. — As used in this section, the term "merchant power plant" means an

9   electricity generating plant in this state that (1) Is not subject to regulation of its rates by the West

10   Virginia Public Service Commission, (2) sells electricity it generates only on the wholesale market,

11   (3) does not sell electricity pursuant to one or more long-term sales contracts, and (4) does not

12   sell electricity to retail consumers.

NOTE: The purpose of this bill is to exempt certain merchant power plants from the business and occupation tax.

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