

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4799

BY DELEGATES ANDERSON AND KELLY, J.

Introduced February 15, 2022; Referred to the
Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5; and to
3 amend said code by adding thereto a new section, designated §24-2A-1, all relating to
4 providing a senior citizen and low-income residential electric customer tax credit;
5 establishing legislative findings; authorizing Tax Commissioner to direct state portion of
6 severance taxes to fund modifications to coal-fired electric generating plants; defining
7 qualifying modifications; authorizing Tax Commissioner to determine amount of credit;
8 providing eligibility for tax credit; requiring annual reports; and authorizing Public Service
9 Commission and Public Energy Authority to determine and approve all qualifying
10 modifications.

Be it enacted by the Legislature of West Virginia:

CHAPTER 11. TAXATION.

ARTICLE 13MM. SENIOR CITIZENS AND LOW-INCOME RESIDENTIAL ELECTRIC CUSTOMER TAX CREDIT.

§11-13MM-1. Legislative Findings.

1 (a) West Virginia's coal-fired electric generation plants (regulated and merchant plants
2 alike) have provided consumers and businesses of the state with adequate, economic and reliable
3 power for many years, through all types of economic, regulatory and market conditions. These
4 plants have many more useful years of life in them, and it is critically important to present and
5 future ratepayers and to the state's economy, especially the communities near the plants and the
6 coal mines that serve them, that these plants remain in operation.

7 (b) It is in the public's best interests for West Virginia's coal-fired electric generation plants
8 to continue to install new technologies and environmental upgrades to achieve compliance with
9 federal and West Virginia environmental standards and to make certain capital improvements to
10 increase plant efficiencies and economic dispatch of coal-fired plants to produce reliable electricity

11 for household and residential consumption.

12 (c) The modifications made to coal-fired electric generation plants will require a significant
13 investment, which will result in rate increases for customers in the state. These expenses are
14 necessary and must be balanced with protecting those citizens to whom the rate increases will
15 most significantly affect, senior citizens and residents living at or below the state's poverty level.

§11-13MM-2. Severance taxes to offset qualifying modifications.

1 (a) For calendar years 2022 and after, the Tax Commissioner shall use the state's portion
2 of severance tax collections pursuant to §11-13A-1 et seq. of this code to offset the cost of
3 qualifying modifications to coal-fired electric generating plants.

4 (b) As used in this section, "qualifying modifications" means modifications made to coal-
5 fired electric generating plants, including installing new technologies and environmental upgrades
6 to achieve compliance with federal and West Virginia environmental standards and to make
7 certain capital improvements to increase plant efficiencies. upon being deemed as such by the
8 approval of the West Virginia Public Service Commission and West Virginia Public Energy
9 Authority.

10 (c) For calendar year 2022 and after, the Tax Commissioner shall subtract the amount of
11 severance tax collections from the total amount of qualifying modifications. After this adjustment,
12 the Tax Commissioner shall then determine the amount of rate increase to be passed along to
13 households within the plant service territory. The Tax Commissioner shall consult with the PSC
14 and PEA when calculating the annual credit.

15 (d) The Tax Commissioner shall incorporate in his or her annual report to the Legislature
16 the amount of severance taxes used for this purpose.

§11-13MM-3. Eligibility for tax credit.

1 Any West Virginia resident 65 years of age or older and any West Virginia resident whose
2 income is below state poverty level, may file for a credit against state income taxes in the amount
3 determined by the Tax Commissioner.

§11-13MM-4. Reporting requirements:

4 On or before February 15 of each year, the PSC and PEA will file a joint report with the
5 Governor, Senate President and House Speaker and Department of Tax and Revenue identifying
6 all qualifying modifications approved during the previous calendar year, including:
7 (1) The specific coal-fired electric plant upon which the modification was approved for or
8 made;
9 (2) The plant's service territory and number of affected household residents;
10 (3) A description and cost of such modification;
11 (4) Whether the modification was necessary to comply with state or federal requirements,
12 or whether the modification was necessary to improve the operation of the plant or extend its
13 operation life.

§11-13MM-5. Rulemaking.

1 The Tax Commissioner shall propose rules for legislative approval pursuant to §29A-3-1
2 et seq. of this code to effectuate the purposes of this article.

CHAPTER 24. PUBLIC SERVICE COMMISSION.**ARTICLE 2A. TAX CREDIT FOR SENIOR CITIZEN AND LOW-INCOME CUSTOMERS.****§24-2A -1. Legislative Findings.; qualification for credit; PSC obligations.**

1 (a) It is in the public's best interests for West Virginia's coal-fired electric generation plants
2 to continue to install new technologies and environmental upgrades to achieve compliance with
3 federal and West Virginia environmental standards and to make certain capital improvements to
4 increase plant efficiencies and economic dispatch of coal-fired plants to produce reliable electricity
5 for household and residential consumption. The modifications made to coal-fired electric
6 generation plants will require a significant investment, which will result in rate increases for
7 customers in the state. These expenses are necessary and must be balanced with protecting
8 those citizens to whom the rate increases will most significantly affect, senior citizens and

9 residents living at or below the state's poverty level.

10 (b) As used in this section, "qualifying modifications" means modifications made to coal-
11 fired electric generating plants, including installing new technologies and environmental upgrades
12 to achieve compliance with federal and West Virginia environmental standards and to make
13 certain capital improvements to increase plant efficiencies. Upon being deemed as such by the
14 approval of the West Virginia Public Service Commission and West Virginia Public Energy
15 Authority.

16 (c) The Public Service Commission shall only consider costs incurred for "qualifying
17 modifications" that are approved by the commission as part of its existing consideration and
18 approval of proposed "Certificate of Public Convenience and Necessity" cases pursuant to §24-
19 2-1 et seq. of this code and Expanded Net Energy Costs (ENEC) cases pursuant to §24-2-4f of
20 this code.

21 (d) For calendar year 2022 and after, the Tax Commissioner shall consult with the Public
22 Service Commission and the Public Energy Authority to calculate the annual credit.

23 (e) Any West Virginia resident 65 years of age or older and any West Virginia resident
24 whose income is below state poverty level, may be eligible for a credit against state income taxes
25 in the amount determined by the Tax Commissioner.

NOTE: The purpose of this bill is to provide a tax credit to senior citizen and low-income residents in an amount to offset rate increases due to certain improvements in coal-fired electric generating plants.

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