

WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2011



E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 1002

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[PASSED AUGUST 5, 2011; IN EFFECT NINETY DAYS FROM PASSAGE.]

ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 1002

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,

BY REQUEST OF THE EXECUTIVE)

[Passed August 5, 2011; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-13A-6a, relating to reallocating and dedicating five percent of coal severance tax revenues up to \$20 million annually to the coal-producing counties of origin to be phased in over a five-year period after accounting for the revenues dedicated to other funds; establishing state and local coal county reallocated severance tax funds and providing for distribution of the moneys to the county commissions by the State Treasurer; establishing amounts each coal-producing county to receive; requiring the creation of local funds into which moneys 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:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-13A-6a, to read as follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-6a. Reallocation and dedication of percentage of severance tax for benefit of coal-producing counties; phase-in period; permissible uses of distributed revenues; duties of State Treasurer and State Tax Commissioner; audits; rulemaking.

1 (a) The purpose of this section is to provide for the reallo-
2 cation and dedication of a portion of the tax attributable to
3 the severance of coal imposed by section three of this article
4 for the use and benefit of the various counties of this state in
5 which the coal upon which that tax is imposed was located
6 at the time it was severed from the ground. Those counties
7 are referred to in this section as the coal-producing counties
8 or, in the singular, as a coal-producing county.

9 (b)(1) Effective July 1, 2012, one percent of the tax attrib-
10 utable to the severance of coal imposed by section three of
11 this article is dedicated and shall be distributed for the use
12 and benefit of the coal-producing counties as provided in
13 this section. Effective July 1, 2013, two percent of the tax
14 attributable to the severance of coal imposed by section three
15 of this article is dedicated and shall be distributed for the use
16 and benefit of the coal-producing counties as provided in
17 this section. Effective July 1, 2014, three percent of the tax
18 attributable to the severance of coal imposed by section three
19 of this article is dedicated and shall be distributed for the use
20 and benefit of the coal-producing counties as provided in
21 this section. Effective July 1, 2015, four percent of the tax
22 attributable to the severance of coal imposed by section three

23 of this article is dedicated and shall be distributed for the use
24 and benefit of the coal-producing counties as provided in
25 this section. Effective July 1, 2016, and thereafter, five
26 percent of the tax attributable to the severance of coal
27 imposed by section three of this article is dedicated and shall
28 be distributed for the use and benefit of the coal-producing
29 counties as provided in this section.

30 (2) In no fiscal year may the proceeds dedicated in subdivi-
31 sion (1) of this subsection exceed the sum of \$20 million.

32 (3) For purposes of this subsection, the tax attributable to
33 the severance of coal imposed by section three of this article
34 does not include the thirty-five one hundredths of one
35 percent additional severance tax on coal imposed by the
36 state for the benefit of counties and municipalities as
37 provided in section six of this article.

38 (c) The amounts of the tax dedicated in subsection (b) of
39 this section shall be deposited, from time to time, into a
40 special fund known as the Coal County Reallocated Sever-
41 ance Tax Fund, which is hereby established in the State
42 Treasury, as the proceeds are received by the State Tax
43 Commissioner.

44 (d) The net proceeds of the deposits made into the Coal
45 County Reallocated Severance Tax Fund shall be allocated
46 among and distributed quarterly to the coal-producing
47 counties by the State Treasurer in the manner specified in
48 this section. On or before each distribution date, the State
49 Treasurer shall determine the total amount of moneys that
50 will be available for distribution to the respective counties
51 entitled to the moneys on that distribution date. The amount
52 to which a coal-producing county is entitled from the Coal
53 County Reallocated Severance Tax Fund shall be determined
54 in accordance with subsection (e) of this section. After
55 determining as set forth in subsection (e) of this section the
56 amount each coal-producing county is entitled to receive
57 from the fund, a warrant of the State Auditor for the sum due
58 to each coal-producing county shall be issued and a check
59 drawn thereon making payment of that amount shall

60 thereafter be distributed to each such coal-producing county
61 by hand, mail commercial delivery or electronic transmis-
62 sion.

63 (e) The amount to which a coal-producing county is
64 entitled from the Coal County Reallocated Severance Tax
65 Fund shall be determined by:

66 (1) Dividing the total amount of moneys in the fund then
67 available for distribution by the total number of tons of coal
68 mined in this state during the preceding quarter; and

69 (2) Multiplying the quotient thus obtained by the number
70 of tons of coal removed from the ground in the county during
71 the preceding quarter.

72 (f)(1) No distribution made to a county under this section
73 may be deposited into the county's general revenue fund. The
74 county commission of each county receiving a distribution
75 under this section shall establish a special account to be
76 known as the "(Name of County) Coal County Reallocated
77 Severance Tax Fund" into which all distributions made to
78 that county under this section shall be deposited.

79 (2) Moneys in the county's coal county reallocated sever-
80 ance tax fund shall be expended by the county commission
81 solely for economic development projects and infrastructure
82 projects.

83 (3) For purposes of this section:

84 (A) "Economic development project" means a project in the
85 state which is likely to foster economic growth and develop-
86 ment in the area in which the project is developed for
87 commercial, industrial, community improvement or preser-
88 vation or other proper purposes.

89 (B) "Infrastructure project" means a project in the state
90 which is likely to foster infrastructure improvements
91 including, but not limited to, post-mining land use, any
92 water or wastewater facilities or any part thereof, storm
93 water systems, steam, gas, telephone and telecommunica-

94 tions, broadband development, electric lines and installa-
95 tions, roads, bridges, railroad spurs, drainage and flood
96 control facilities, industrial park development or buildings
97 that promote job creation and retention.

98 (4) A county commission may not expend any of the funds
99 available in its coal county reallocated severance tax fund
100 for personal services, for the costs of issuing bonds, or for the
101 payment of bond debt service, and shall direct the total funds
102 available in its coal county reallocated severance tax fund to
103 project development, which may include the costs of archi-
104 tectural and engineering plans, site assessments, site
105 remediation, specifications and surveys, and any other
106 expenses necessary or incidental to determining the feasibil-
107 ity or practicability of any economic development project or
108 infrastructure project.

109 (g) On or before December 31, 2013, and December 1 of
110 each year thereafter, the county commission of each county
111 receiving a distribution of funds under this section shall
112 deliver to the Joint Committee on Government and Finance
113 a written report setting forth the specific projects for which
114 those funds were expended during the next preceding fiscal
115 year, a detailed account of those expenditures, and a showing
116 that the expenditures were made for the purposes required
117 by this section.

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

123 (i) The State Tax Commissioner shall propose for promul-
124 gation legislative rules pursuant to article three, chapter
125 twenty-nine-a of this code for the administration of the
126 provisions of this section, and is authorized to promulgate
127 emergency rules for those purposes pursuant to that article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman Senate Committee

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

.....
Clerk of the Senate

.....
Clerk of the House of Delegates

.....
Acting President of the Senate

.....
Speaker of the House of Delegates

The within this the
Day of, 2011.

.....
Governor