WEST VIRGINIA CODE: §11-13A-6a

§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.

(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 coal imposed by §11-13A-3 of this code for the use and benefit of the various counties of this state in which the coal upon which that tax is imposed was located at the time it was severed from the ground. Those counties are referred to in this section as the "coal-producing counties" or, in the singular, as a "coal-producing county".

(b)(1) Effective July 1, 2012, one percent of the tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-producing counties as provided in this section. Effective July 1, 2013, two percent of the tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-producing counties as provided in this section. Effective July 1, 2014, three percent of the tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-producing counties as provided in this section. Effective July 1, 2015, four percent of the tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-producing counties as provided in this section. Effective July 1, 2016, and thereafter, five percent of the tax attributable to the severance of coal imposed by §11-13A-3 of this code is dedicated and shall be distributed for the use and benefit of the coal-producing counties as provided in this section. Effective July 1, 2019, and thereafter, the portion of the severance tax on coal imposed by §11-13A-3 of this code dedicated and to be distributed for the use and benefit of the coal-producing counties as provided in this subsection shall not be less than the amount distributed pursuant to this subsection for the fiscal year beginning July 1, 2018.

(2) In no fiscal year may the proceeds dedicated in subdivision (1) of this subsection exceed the sum of $20 million.

(3) For purposes of this subsection, the tax attributable to the severance of coal imposed by §11-13A-3 of this code does not include the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

(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 Coal County Reallocated Severance Tax Fund, which is hereby established in the State Treasury, as the proceeds are received by the State Tax Commissioner.

www.lexisnexis.com

(d) The net proceeds of the deposits made into the Coal County Reallocated Severance Tax Fund shall be allocated among and distributed quarterly to the coal-producing counties 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 entitled to the moneys on that distribution date. The amount to which a coal-producing county is entitled from the Coal County Reallocated Severance Tax Fund shall be determined in accordance with subsection (e) of this section. After determining, as set forth in subsection (e) of this section, the amount each coal-producing county is entitled to receive from the fund, a warrant of the State Auditor for the sum due to each coal-producing county shall be issued and a check drawn thereon making payment of that amount shall thereafter be distributed to each such coal-producing county by hand, mail, commercial delivery, or electronic transmission.

(e) The amount to which a coal-producing county is entitled from the Coal County 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 tons of coal mined in this state during the preceding quarter; and

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

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

(2) Moneys in the county's coal county reallocated severance tax fund shall be expended by the county commission 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, any water or wastewater facilities or any 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, or litter cleanup programs.

(4) A county commission may not expend any of the funds available in its coal county

WV Legislature

reallocated severance tax fund for personal services, for the costs of issuing bonds, or for the payment of bond debt service, and shall direct the total funds available in its coal county reallocated severance tax fund to project development, which may include the costs of architectural and engineering plans, site assessments, site remediation, specifications and surveys, and any other expenses necessary or incidental to determining the feasibility or practicability of any economic development project or infrastructure project.

(5) On or before December 31, 2013, and December 1 of each year thereafter, the county commission of each county 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 next preceding fiscal year, a detailed account of those expenditures, and a showing that the expenditures were made for the purposes required by this section.

(g) An audit of any 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 or county commissions audited.

(h) The State Tax Commissioner shall propose for promulgation 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.

WV Legislature