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WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1988

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ENROLLED

SENATE BILL NO. 3

(By Senators Tonkovich, Mr. President (By Request)
AND HARMAN)

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PASSED MARCH 22, 1988

In Effect from Passage



ENROLLED

Senate Bill No. 3

(BY SENATORS TONKOVICH, MR. PRESIDENT (BY REQUEST) AND HARMAN)

[Passed March 22, 1988; in effect from passage.]

AN ACT to amend article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section three-a; to amend and reenact section two, article fifteen-a of said chapter eleven; and to amend article four-b, chapter twenty-three of said code by adding thereto a new section, designated section eight-a, all relating to increasing state revenues, cash flow, money transfers and repayments; authorizing transfers from coal-workers' pneumoconiosis fund upon request of the governor and as needed for timely payment for government operations; specifying the maximum amount of transfer authorization and purpose for which such moneys as transferred may be disbursed and expended; providing terms and conditions for repayment of all such transfers, including interest; specifying that the rate of premiums to be paid for coverage by the coal-workers' pneumoconiosis fund shall be determined with like effect as if such transfers had not taken place; creating a special account in the state treasury for activities of deposit, withdrawal and repayment transfers and for invoking applicability of the special fund doctrine with respect to budget activities beyond one fiscal year for casual debt; providing for temporary increase in the rates of the consumers sales tax and complementary use tax laws for

specified period, with reversion thereafter to prior rates, to enhance revenue receipts, cash flow and repayment transfers; exclusions from temporary rate increases; requiring portion of tax receipts to be allocated and directed by tax commissioner into special accounts for repayment of coal-workers' pneumoconiosis fund debt, payable over five-fiscal-year period, and other portion to be allocated and directed for payment of public employees health insurance claims; and specifying effective dates.

Be it enacted by the Legislature of West Virginia:

That article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section three-a; that section two, article fifteen-a of said chapter eleven be amended and reenacted; and that article four-b, chapter twenty-three of said code be amended by adding thereto a new section, designated section eight-a, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES TAX.

§11-15-3a. Temporary one-cent increase in rate of tax for period beginning June 1, 1988 and ending June 30, 1989; exclusions from increase; portion of taxes required to be allocated and directed by tax commissioner into special accounts for repayment of pneumoconiosis fund debt and for payment of public employees health insurance claims.

1 For the privilege of selling tangible personal property or
2 dispensing certain selected services defined in this article,
3 the vendor shall collect from the purchaser the tax as
4 provided under this article and shall pay the amount of tax
5 to the tax commissioner in accordance with the provisions
6 of this article.

7 (a) Beginning on the first day of June, one thousand nine
8 hundred eighty-eight and ending after the thirtieth day of
9 June, one thousand nine hundred eighty-nine, the general
10 consumer sales and service tax imposed by this article shall
11 be at the rate of six cents on the dollar of sales, excluding
12 gasoline and special fuel sales, which remain taxable at the
13 rate in section three, and excluding sales of mobile homes,

14 which remain taxable at the rate in section nine of this
15 article. After the thirtieth day of June, one thousand nine
16 hundred eighty-nine, the rate of tax shall revert to the prior
17 rate as provided in section three of this article, subject to
18 such exclusions.

19 There shall be no tax on sales where the monetary
20 consideration is five cents or less. The amount of tax
21 specified in this section at the six cents rate shall be
22 computed as follows:

23 (1) On each sale, where the monetary consideration is
24 from six cents to sixteen cents, both inclusive, one cent.

25 (2) On each sale, where the monetary consideration is
26 from seventeen cents to thirty-three cents, both inclusive,
27 two cents.

28 (3) On each sale, where the monetary consideration is
29 from thirty-four cents to fifty cents, both inclusive, three
30 cents.

31 (4) On each sale, where the monetary consideration is
32 from fifty-one cents to sixty-seven cents, both inclusive,
33 four cents.

34 (5) On each sale, where the monetary consideration is
35 from sixty-eight cents to eighty-four cents, both inclusive,
36 five cents.

37 (6) On each sale, where the monetary consideration is
38 from eighty-five cents to one dollar, both inclusive, six
39 cents.

40 (7) If the sale price is in excess of one dollar, six cents on
41 each whole dollar of sale price, and upon any fractional part
42 of a dollar in excess of whole dollars, as follows: One cent on
43 the fractional part of the dollar if less than seventeen cents;
44 two cents on the fractional part of the dollar if in excess of
45 sixteen cents but less than thirty-four cents; three cents on
46 the fractional part of the dollar if in excess of thirty-three
47 cents but less than fifty-one cents; four cents on the
48 fractional part of the dollar if in excess of fifty cents but less
49 than sixty-eight cents; five cents on the fractional part of
50 the dollar if in excess of sixty-seven cents but less than
51 eighty-five cents; and six cents on the fractional part of the
52 dollar if in excess of eighty-four cents. For example, the tax
53 on sales from one dollar and one cent to one dollar and
54 sixteen cents, both inclusive, seven cents; on sales from one
55 dollar and seventeen cents to one dollar and thirty-three
56 cents, both inclusive, eight cents; on sales from one dollar

57 and thirty-four cents to one dollar and fifty cents, both
58 inclusive, nine cents; on sales from one dollar and fifty-one
59 cents to one dollar and sixty-seven cents, both inclusive, ten
60 cents; on sales from one dollar and sixty-eight cents to one
61 dollar and eighty-four cents, both inclusive, eleven cents;
62 and on sales from one dollar and eighty-five cents to two
63 dollars, both inclusive, twelve cents.

64 Separate sales, such as daily or weekly deliveries, shall
65 not be aggregated for the purpose of computation of the tax
66 even though such sales are aggregated in the billing or
67 payment therefor. Notwithstanding any other provision,
68 coin-operated amusement and vending machine sales shall
69 be aggregated for the purpose of computation of this tax.

70 (b) *Allocation of tax and transfers.* — Of the taxes
71 collected under the provisions of this article for the period
72 beginning on the first day of June, one thousand nine
73 hundred eighty-eight and ending after the thirtieth day of
74 June, one thousand nine hundred eighty-nine, the portion
75 of such taxes representing just the temporary rate of
76 increase (the additional one cent) receivable by the tax
77 commissioner during such period or thereafter, shall be
78 allocated by him on reasonable basis and with allowance
79 for refunds; and the tax commissioner shall, initially or by
80 transfer, deposit a part of such portion of allocated taxes
81 into the special account created in the treasury by section
82 eight-a, article four-b, chapter twenty-three of this code,
83 and being the amount sufficient for making timely
84 repayment of the principal and interest under the first
85 payment due, by the thirtieth day of June, one thousand
86 nine hundred eighty-nine, in repayment for the moneys
87 previously transferred from such pneumoconiosis fund. The
88 other four repayment transfers required for full repayment
89 of the pneumoconiosis fund debt, payable in the four
90 succeeding fiscal years shall be made by the tax
91 commissioner, timely and in the aforesaid manner, from all
92 taxes collected under this article in such fiscal years. The
93 remainder of such allocated portion of the temporary tax
94 increase (the additional one cent) aforesaid, after receipt,
95 shall be, initially or by transfer, deposited by the tax
96 commissioner, monthly, directly into the special revenue
97 fund of the Public Employees Insurance Agency, designated
98 "Basic Insurance Premium Fund," Account No. 8265-05,
99 for payment of health insurance claims.

ARTICLE 15A. USE TAX.**§11-15A-2. Imposition of tax; additional temporary one percent increase in rate of tax for period beginning June 1, 1988 and ending June 30, 1989; exclusions from increase; portion of taxes required to be allocated and directed by tax commissioner into special accounts for repayment of pneumoconiosis fund debt and for payment of public employees health insurance claims; inclusion of services as taxable on and after July 1, 1987.**

1 (a) An excise is hereby levied and imposed on the use in
2 this state of tangible personal property or taxable services,
3 to be collected and paid as hereinafter provided, at the rate
4 of five percent of the purchase price of such property or
5 taxable services, with such rate being hereby temporarily
6 increased to a rate of six percent for the period beginning on
7 the first day of June, one thousand nine hundred eighty-
8 eight and ending after the thirtieth day of June, one
9 thousand nine hundred eighty-nine, excluding gasoline and
10 special fuel sales and excluding sales of mobile homes,
11 which shall remain taxable at prior rates. "Taxable
12 services," for the purposes of this article, means services of
13 the nature that are subject to the tax imposed by article
14 fifteen of this chapter. In this article, wherever the words
15 "tangible personal property" or "property" appear, the
16 same shall include the words "or taxable services," where
17 the context so requires.

18 (b) Of the taxes collected under the provisions of this
19 section and article for the period beginning on the first day
20 of June, one thousand nine hundred eighty-eight and
21 ending after the thirtieth day of June, one thousand nine
22 hundred eighty-nine, the portion of such taxes representing
23 just the temporary rate of increase (the additional one
24 percent) receivable by the tax commissioner, during such
25 period or thereafter, shall be allocated by him on reasonable
26 basis and with allowance for refunds; and the tax
27 commissioner shall, initially or by transfer, deposit a part of
28 such portion of allocated taxes into the special account
29 created in the state treasury by section eight-a, article
30 four-b, chapter twenty-three of this code, and being the
31 amount sufficient, together with the moneys similarly

32 dedicated by section three-a, article fifteen of this chapter,
33 for making timely repayment of the principal and interest
34 under the first payment due, by the thirtieth day of June,
35 one thousand nine hundred eighty-nine, in repayment for
36 the moneys prior-borrowed from such pneumoconiosis
37 fund. The other four repayment transfers required for full
38 repayment of the pneumoconiosis fund debt, payable in the
39 four succeeding fiscal years, shall be made by the tax
40 commissioner, timely and in the aforesaid manner, from
41 any taxes collected under this article in such fiscal years.
42 The remainder of such allocated portion of the temporary
43 tax increase (the additional one percent) aforesaid, after
44 receipt, shall be, initially or by transfer, deposited by the
45 tax commissioner, quarterly, directly into the special
46 revenue fund of the Public Employees Insurance Agency
47 designated "Basic Insurance Premium Fund," Account No.
48 8265-05, for payment of health insurance claims.

49 (c) Such tax is hereby imposed upon every person using
50 tangible personal property or taxable services within this
51 state. That person's liability is not extinguished until such
52 tax has been paid. A receipt with the tax separately stated
53 thereon issued by a retailer engaged in business in this state,
54 or by a foreign retailer who is authorized by the tax
55 commissioner to collect the tax imposed by this article,
56 relieves the purchaser from further liability for the tax to
57 which the receipt refers.

58 (d) Purchases of tangible personal property or taxable
59 services made for the government of the United States or
60 any of its agencies by ultimate consumers shall be subject to
61 the tax imposed by this section. Industrial materials and
62 equipment owned by the federal government within the
63 state of West Virginia of a character not ordinarily readily
64 obtainable within the state, shall not be subject to use tax
65 when sold, if such industrial materials and equipment
66 would not be subject to use taxes if such were sold outside of
67 the state for use in West Virginia.

68 (e) This article shall not apply to purchases made by
69 counties or municipal corporations.

70 (f) The provisions of this section, as amended, shall
71 apply on and after the first day of June, one thousand nine
72 hundred eighty-eight, except where other internal specific
73 effective date controls.

CHAPTER 23. WORKERS' COMPENSATION.

ARTICLE 4B. COAL-WORKERS' PNEUMOCONIOSIS FUND.

§23-4B-8a. Legislative findings; transfers to the state; maximum transfer authorization; purpose for which moneys transferred may be disbursed and expended; maximum amount of transfer authorization; terms and conditions for repayment; premiums to be set without regard to transfers; creation of special account in state treasury.

1 (a) The Legislature hereby finds and declares that there
2 is a casual deficit in the general revenue fund of this state
3 because of the failure of the state's taxation program to
4 produce the estimated revenues, such deficit condition
5 having come into existence from ordinary expenses of the
6 state without design and unexpectedly; that there is a large
7 surplus of moneys in the coal-workers' pneumoconiosis
8 fund; that transfers not to exceed thirty million dollars
9 from the coal-workers' pneumoconiosis fund will assist in
10 financing government operations, without in any way
11 affecting the solvency of the coal-workers' pneumoconiosis
12 fund; and that the interest being earned on the coal-
13 workers' pneumoconiosis fund each year has for some time
14 exceeded thirty million dollars. This section is enacted in
15 view of these findings.

16 (b) Whenever the governor determines that the general
17 revenue fund available for expenditure is insufficient for
18 the timely payment for government operations, the
19 treasurer, state board of investments and the commissioner
20 shall transfer moneys from the coal-workers'
21 pneumoconiosis fund to the special account created in the
22 state treasury by subsection (f) of this section, in the
23 amounts determined by the governor to be sufficient and
24 necessary to meet such payments. The total of the amounts
25 transferred may not exceed thirty million dollars, and the
26 transfers shall be subject to the payment of interest equal to
27 the actual interest rate earned by the coal-workers'
28 pneumoconiosis fund on the day of each transfer for the
29 period of each transfer until repayment.

30 (c) Any such transfer may be used only for payments for
31 medicaid reimbursement.

32 (d) Full repayment of all transfers, with interest, shall
33 be made to the coal-workers' pneumoconiosis fund by
34 budget action as first priority from the moneys available for
35 each fiscal year as follows: At least one fifth of the
36 outstanding amount with interest shall be repaid no later
37 than the thirtieth day of June, one thousand nine hundred
38 eighty-nine; at least one fourth of the outstanding amount
39 with interest shall be repaid no later than the thirtieth day
40 of June, one thousand nine hundred ninety; at least one
41 third of the outstanding amount with interest shall be
42 repaid no later than the thirtieth day of June, one thousand
43 nine hundred ninety-one; at least one half of the
44 outstanding amount with interest shall be repaid no later
45 than the thirtieth day of June, one thousand nine hundred
46 ninety-two; and the balance of the remaining amount
47 transferred shall be repaid with interest no later than the
48 thirtieth day of June, one thousand nine hundred ninety-
49 three. Repayment transfers, shall be made by budget action
50 as first priority from the moneys available for each fiscal
51 year and as made, shall not be deemed to renew, restore or
52 increase in any way the maximum amount of thirty million
53 dollars herein authorized.

54 (e) The rates of premiums to be paid for coverage by the
55 coal-workers' pneumoconiosis fund shall be determined by
56 the commissioner with like effect as if all such transfers had
57 not been made but had, together with the interest earned
58 thereon, been available for use by the coal-workers'
59 pneumoconiosis fund.

60 (f) There is hereby created in the state treasury a special
61 account for the deposit, withdrawal and repayment of
62 moneys transferred pursuant to this section and to invoke
63 the applicability of the special fund doctrine with respect to
64 budgetary transfer activities involving more than one fiscal
65 year.

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

Bruce C. Williams
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Sadd C. Mathis
.....
Clerk of the Senate

Donald L. Hoyle
.....
Clerk of the House of Delegates

Don Touhman
.....
President of the Senate

Robt. T. Allen
.....
Speaker House of Delegates

The within *appeared* this the *25th*
March
day of, 1988.

Anna May
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/24/88

Time 12:05 p.m.

RECEIVED
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SPECIAL AGENT
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JUL 31 1968