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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

—●—
ENROLLED
Committee Substitute for
SENATE BILL NO. 527

(By Senator Withers, et al)

—●—
PASSED March 9, 1991
In Effect from Passage

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 527

(SENATORS WITHERS, WAGNER AND BLATNIK,
original sponsors)

[Passed March 9, 1991; in effect from passage.]

AN ACT to amend and reenact section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the additional tax on the severance, extraction and production of coal; and providing that in computing the additional tax for benefit of counties and municipalities that the tax commissioner not apply credits against said additional tax.

Be it enacted by the Legislature of West Virginia:

That section six, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE TAXES.

§11-13A-6. Additional tax on the severance, extraction and production of coal; dedication of additional tax for benefit of counties and municipalities;

distribution of major portion of such additional tax to coal-producing counties; distribution of minor portion of such additional tax to all counties and municipalities; reports; rules and regulations; creation of special funds in office of state treasurer; method and formulas for distribution of such additional tax; expenditure of funds by counties and municipalities for public purposes; creating special funds in counties and municipalities; and requiring special county and municipal budgets and reports thereon.

1 (a) *Additional coal severance tax.* — Upon every
2 person exercising the privilege of engaging or continu-
3 ing within this state in the business of severing coal,
4 or preparing coal (or both severing and preparing
5 coal), for sale, profit or commercial use, there is
6 hereby imposed an additional severance tax, the
7 amount of which shall be equal to the value of the coal
8 severed or prepared (or both severed and prepared),
9 against which the tax imposed by section three of the
10 article is measured as shown by the gross proceeds
11 derived from the sale thereof by the producer, multi-
12 plied by thirty-five one hundredths of one percent.
13 The tax imposed by this subsection (a) shall be in
14 addition to the tax imposed by section three of this
15 article, and this additional tax is hereinafter in this
16 section referred to as the “additional tax on coal”.

17 (b) This additional tax on coal is imposed pursuant
18 to the provisions of section six-a, article ten of the
19 West Virginia constitution. Seventy-five percent of the
20 net proceeds of this additional tax on coal shall, after
21 appropriation thereof by the Legislature, be distrib-
22 uted by the state treasurer in the manner hereinafter
23 specified, to the various counties of this state in which
24 the coal upon which this additional tax is imposed was
25 located at the time it was severed from the ground.
26 Those counties are hereinafter in this section referred
27 to as the “coal-producing counties”. The remaining
28 twenty-five percent of the net proceeds of this addi-
29 tional tax on coal shall be distributed, after appropri-

30 ation, among all the counties and municipalities of this
31 state in the manner hereinafter specified.

32 (c) Such additional tax on coal shall be due and
33 payable, reported and remitted as elsewhere provided
34 in this article for the tax imposed by said section three
35 of this article, and all of the enforcement and other
36 provisions of this article shall apply to such additional
37 tax. In addition to the reports and other information
38 required under the provisions of this article and the
39 tonnage reports required to be filed under the provi-
40 sions of section seventy-two, article two, chapter
41 twenty-two of this code, the tax commissioner is
42 hereby granted plenary power and authority to pro-
43 mulgate reasonable rules and regulations requiring
44 the furnishing by producers of such additional infor-
45 mation as may be necessary to compute the allocation
46 required under the provisions of subsection (f) of this
47 section. The tax commissioner is also hereby granted
48 plenary power and authority to promulgate such other
49 reasonable rules and regulations as may be necessary
50 to implement the provisions of this section: *Provided,*
51 That notwithstanding any language contained in this
52 code to the contrary, the gross amount of additional
53 tax on coal collected under this article, shall be paid
54 over and distributed without the application of any
55 credits against the tax imposed by this section.

56 (d) In order to provide a procedure for the distribu-
57 tion of seventy-five percent of the net proceeds of such
58 additional tax on coal to such coal-producing counties,
59 there is hereby created in the state treasurer's office
60 a special fund to be known as the "county coal
61 revenue fund"; and in order to provide a procedure
62 for the distribution of the remaining twenty-five
63 percent of the net proceeds of such additional tax on
64 coal to all counties and municipalities of the state,
65 without regard to coal having been produced therein,
66 there is also hereby created in the state treasurer's
67 office a special fund to be known as the "all counties
68 and municipalities revenue fund".

69 Seventy-five percent of the net proceeds of such
70 additional tax on coal shall be deposited in the "county

71 coal revenue fund” and twenty-five percent of such
72 net proceeds shall be deposited in the “all counties and
73 municipalities revenue fund”, from time to time, as
74 such proceeds are received by the tax commissioner.
75 The moneys in such funds shall, after appropriation
76 thereof by the Legislature, be distributed to the
77 respective counties and municipalities entitled thereto
78 in the manner set forth in subsection (e) of this
79 section.

80 (e) The moneys in the “county coal revenue fund”
81 and the moneys in the “all counties and municipalities
82 revenue fund” shall be allocated among and distrib-
83 uted quarterly to the counties and municipalities
84 entitled thereto by the state treasurer in the manner
85 hereinafter specified. On or before each distribution
86 date, the state treasurer shall determine the total
87 amount of moneys in each fund which will be avail-
88 able for distribution to the respective counties and
89 municipalities entitled thereto on that distribution
90 date. The amount to which a coal-producing county is
91 entitled from the “county coal revenue fund” shall be
92 determined in accordance with subsection (f) of this
93 section, and the amount to which every county and
94 municipality shall be entitled from the “all counties
95 and municipalities revenue fund” shall be determined
96 in accordance with subsection (g) of this section. After
97 determining as set forth in subsection (f) and subsec-
98 tion (g) of this section the amount each county and
99 municipality is entitled to receive from the respective
100 fund or funds, a warrant of the state auditor for the
101 sum due to such county or municipality shall issue and
102 a check drawn thereon making payment of such sum
103 shall thereafter be distributed to such county or
104 municipality.

105 (f) The amount to which a coal-producing county is
106 entitled from the “county coal revenue fund” shall be
107 determined by: (1) Dividing the total amount of
108 moneys in such fund then available for distribution by
109 the total number of tons of coal mined in this state
110 during the preceding quarter; and (2) multiplying the
111 quotient thus obtained by the number of tons of coal

112 removed from the ground in such county during the
113 preceding quarter.

114 (g) The amount to which each county and municipi-
115 pality shall be entitled from the "all counties and
116 municipalities revenue fund" shall be determined in
117 accordance with the provisions of this subsection. For
118 purposes of this subsection "population" shall mean
119 the population as determined by the most recent
120 decennial census taken under the authority of the
121 United States:

122 (1) The treasurer shall first apportion the total
123 amount of moneys available in the "all counties and
124 municipalities revenue fund" by multiplying the total
125 amount in such fund by the percentage which the
126 population of each county bears to the total population
127 of the state. The amount thus apportioned for each
128 county shall be the county's "base share".

129 (2) Each county's "base share" shall then be subdivi-
130 ded into two portions. One portion shall be deter-
131 mined by multiplying the "base share" by that
132 percentage which the total population of all unincorpo-
133 rated areas within the county bears to the total
134 population of the county, and the other portion shall
135 be determined by multiplying the "base share" by
136 that percentage which the total population of all
137 municipalities within the county bears to the total
138 population of the county. The former portion shall be
139 paid to the county and the latter portion shall be the
140 "municipalities' portion" of the county's "base share".
141 The percentage of such latter portion to which each
142 municipality in the county is entitled shall be deter-
143 mined by multiplying the total of such latter portion
144 by the percentage which the population of each
145 municipality within the county bears to the total
146 population of all municipalities within the county.

147 (h) All counties and municipalities shall create a
148 "coal severance tax revenue fund" which shall be the
149 depository for moneys distributed to any county or
150 municipality under the provisions of this section, from
151 either or both special funds. Moneys in such "coal

152 severance tax revenue funds", in compliance with
153 subsection (i), may be expended by the county com-
154 mission or governing body of the municipality for such
155 public purposes as the county commission or govern-
156 ing body shall determine to be in the best interest of
157 the people of its respective county or municipality:
158 *Provided*, That in counties with population in excess of
159 two hundred thousand at least seventy-five percent of
160 such funds received from the county coal revenue
161 fund shall be apportioned to, and expended within the
162 coal producing area or areas of the county, said coal
163 producing areas of each county to be determined
164 generally by the state tax commissioner: *Provided*,
165 *however*, That a line item budgeted amount from the
166 current levy estimated for a county shall be funded at
167 one hundred percent of the preceding year's expendi-
168 ture from the county general fund prior to the use of
169 coal severance tax revenue fund moneys for the same
170 general purpose: *Provided further*, That said coal
171 severance tax revenue fund moneys shall not be
172 budgeted for personal services in an amount to exceed
173 one fourth of the total funds available in such fund.

174 (i) On or before the twenty-eighth day of March, one
175 thousand nine hundred eighty-six, and each twenty-
176 eighth day of March thereafter, each county commis-
177 sion or governing body of a municipality receiving
178 such revenue shall submit to the tax commissioner on
179 forms provided by the tax commissioner a special
180 budget, detailing how such revenue is to be spent
181 during the subsequent fiscal year. Such budget shall
182 be followed in expending such revenue unless a
183 subsequent budget is approved by the state tax com-
184 missioner. All unexpended balances remaining in said
185 special fund at the close of a fiscal year shall be
186 reappropriated to the budget for the subsequent fiscal
187 year. Such reappropriation shall be entered as an
188 amendment to the new budget and submitted to the
189 tax commissioner on or before the fifteenth day of
190 July of the current budget year.

191 (j) On or before the fifteenth day of December, one
192 thousand nine hundred eighty-six, and each fifteenth

193 day of December thereafter, the tax commissioner
194 shall deliver to the clerk of the Senate and the clerk
195 of the House of Delegates a consolidated report of the
196 special budgets, created by subsection (i) of this
197 section, for all county commissions and municipalities
198 as of the fifteenth day of July of the current year.

199 (k) The state tax commissioner shall retain for the
200 benefit of the state from the additional taxes on coal
201 collected the amount of thirty-five thousand dollars
202 annually as a fee for the administration of such
203 additional tax by the tax commissioner.

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

Thomas Heck
.....
Chairman Senate Committee

Ernest C. Meade
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Parrell E. Kelms
.....
Clerk of the Senate

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

Keith Burdette
.....
President of the Senate

W. R. ...
.....
Speaker House of Delegates

The within ~~is approved~~ this the *1st*
day of *April*, 1991.

Yaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/91

Time 10:35 am