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.

(a) Additional coal severance tax. — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing coal, or preparing coal (or both severing and preparing coal), for sale, profit or commercial use, there is hereby imposed an additional severance tax, the amount of which shall be equal to the value of the coal severed or prepared (or both severed and prepared), against which the tax imposed by section three of the article is measured as shown by the gross proceeds derived from the sale thereof by the producer, multiplied by thirty-five one hundredths of one percent. The tax imposed by this subsection (a) shall be in addition to the tax imposed by section three of this article, and this additional tax is hereinafter in this section referred to as the “additional tax on coal”.

(b) This additional tax on coal is imposed pursuant to the provisions of section six-a, article ten of the West Virginia constitution. Seventy-five percent of the net proceeds of this additional tax on coal shall, after appropriation thereof by the Legislature, be distributed by the state treasurer in the manner hereinafter specified, to the various counties of this state in which the coal upon which this additional tax is imposed was located at the time it was severed from the ground. Those counties are hereinafter in this section referred to as the “coal-producing counties”. The remaining twenty-five percent of the net proceeds of this additional tax on coal shall be distributed, after appropri-
(c) Such additional tax on coal shall be due and payable, reported and remitted as elsewhere provided in this article for the tax imposed by said section three of this article, and all of the enforcement and other provisions of this article shall apply to such additional tax. In addition to the reports and other information required under the provisions of this article and the tonnage reports required to be filed under the provisions of section seventy-two, article two, chapter twenty-two of this code, the tax commissioner is hereby granted plenary power and authority to promulgate reasonable rules and regulations requiring the furnishing by producers of such additional information as may be necessary to compute the allocation required under the provisions of subsection (f) of this section. The tax commissioner is also hereby granted plenary power and authority to promulgate such other reasonable rules and regulations as may be necessary to implement the provisions of this section: Provided, That notwithstanding any language contained in this code to the contrary, the gross amount of additional tax on coal collected under this article, shall be paid over and distributed without the application of any credits against the tax imposed by this section.

(d) In order to provide a procedure for the distribution of seventy-five percent of the net proceeds of such additional tax on coal to such coal-producing counties, there is hereby created in the state treasurer's office a special fund to be known as the "county coal revenue fund"; and in order to provide a procedure for the distribution of the remaining twenty-five percent of the net proceeds of such additional tax on coal to all counties and municipalities of the state, without regard to coal having been produced therein, there is also hereby created in the state treasurer's office a special fund to be known as the "all counties and municipalities revenue fund".

Seventy-five percent of the net proceeds of such additional tax on coal shall be deposited in the "county
coal revenue fund” and twenty-five percent of such
net proceeds shall be deposited in the “all counties and
municipalities revenue fund”, from time to time, as
such proceeds are received by the tax commissioner.
The moneys in such funds shall, after appropriation
thereof by the Legislature, be distributed to the
respective counties and municipalities entitled thereto
in the manner set forth in subsection (e) of this
section.

(e) The moneys in the “county coal revenue fund”
and the moneys in the “all counties and municipalities
revenue fund” shall be allocated among and distrib-
uted quarterly to the counties and municipalities
entitled thereto by the state treasurer in the manner
hereinafter specified. On or before each distribution
date, the state treasurer shall determine the total
amount of moneys in each fund which will be avail-
able for distribution to the respective counties and
municipalities entitled thereto on that distribution
date. The amount to which a coal-producing county is
entitled from the “county coal revenue fund” shall be
determined in accordance with subsection (f) of this
section, and the amount to which every county and
municipality shall be entitled from the “all counties
and municipalities revenue fund” shall be determined
in accordance with subsection (g) of this section. After
determining as set forth in subsection (f) and subsec-
tion (g) of this section the amount each county and
municipality is entitled to receive from the respective
fund or funds, a warrant of the state auditor for the
sum due to such county or municipality shall issue and
a check drawn thereon making payment of such sum
shall thereafter be distributed to such county or
municipality.

(f) The amount to which a coal-producing county is
entitled from the “county coal revenue fund” shall be
determined by: (1) Dividing the total amount of
moneys in such 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 such county during the preceding quarter.

(g) The amount to which each county and municipality shall be entitled from the "all counties and municipalities revenue fund" shall be determined in accordance with the provisions of this subsection. For purposes of this subsection "population" shall mean the population as determined by the most recent decennial census taken under the authority of the United States:

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

(2) Each county's "base share" shall then be subdivided into two portions. One portion shall be determined by multiplying the "base share'' by that percentage which the total population of all unincorporated areas within the county bears to the total population of the county, and the other portion shall be determined by multiplying the "base share'' by that percentage which the total population of all municipalities within the county bears to the total population of the county. The former portion shall be paid to the county and the latter portion shall be the "municipalities' portion'' of the county's "base share''. The percentage of such latter portion to which each municipality in the county is entitled shall be determined by multiplying the total of such latter portion by the percentage which the population of each municipality within the county bears to the total population of all municipalities within the county.

(h) All counties and municipalities shall create a "coal severance tax revenue fund" which shall be the depository for moneys distributed to any county or municipality under the provisions of this section, from 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.

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

(j) On or before the fifteenth day of December, one
190 thousand nine hundred eighty-six, and each fifteenth
day of December thereafter, the tax commissioner shall deliver to the clerk of the Senate and the clerk of the House of Delegates a consolidated report of the special budgets, created by subsection (i) of this section, for all county commissions and municipalities as of the fifteenth day of July of the current year.

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

The within bill is approved this the 1st day of , 1991.

Governor