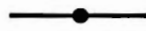


SB 78

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SENATE, WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

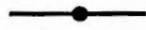
REGULAR SESSION, 1996



# ENROLLED

SENATE BILL NO. 78

(By Senator Craig)



PASSED February 13, 1996  
In Effect from Passage

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OFFICE OF THE CLERK  
SENATE OF WEST VIRGINIA

## ENROLLED

### Senate Bill No. 78

(BY SENATOR CRAIGO)

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[Passed February 13, 1996; in effect from passage.]

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AN ACT to amend and reenact section five-a, article thirteen-a, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to dedication of oil and gas severance tax for benefit of counties and municipalities; distribution of dedicated tax; promulgation of rules; creation of special funds; methods and formulae for distribution of the dedicated tax; expenditure of funds by counties and municipalities; and requirements for special budgets and reports.

*Be it enacted by the Legislature of West Virginia:*

That section five-a, 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-5a. Dedication of ten percent of oil and gas severance tax for benefit of counties and municipalities; distribution of major portion of such dedicated tax to oil and gas producing counties; distribution of minor portion of such dedicated tax to all counties and municipalities; reports; rules; creation of special funds in the office of state treasurer; methods and formulae for distribution of such dedicated tax; expenditure of funds by counties and municipalities for public purposes; and requiring special county and municipal budgets and reports thereon.**

1 (a) Effective the first day of July, one thousand nine  
2 hundred ninety-six, five percent of the tax attributable  
3 to the severance of oil and gas imposed by section three-  
4 a of this article is hereby dedicated for the use and  
5 benefit of counties and municipalities within this state  
6 and shall be distributed to the counties and municipali-  
7 ties as provided in this section. Effective the first day of  
8 July, one thousand nine hundred ninety-seven, and  
9 thereafter, ten percent of the tax attributable to the  
10 severance of oil and gas imposed by section three-a of  
11 this article is hereby dedicated for the use and benefit of  
12 counties and municipalities within this state and shall be  
13 distributed to the counties and municipalities as pro-  
14 vided in this section.

15 (b) Seventy-five percent of this dedicated tax shall,  
16 after appropriation of the tax by the Legislature, be  
17 distributed by the state treasurer in the manner specified  
18 in this section, to the various counties of this state in  
19 which the oil and gas upon which this additional tax is  
20 imposed was located at the time it was removed from the  
21 ground. Those counties are referred to in this section as  
22 the "oil and gas producing counties". The remaining  
23 twenty-five percent of the net proceeds of this additional  
24 tax on oil and gas shall be distributed, after appropria-  
25 tion, among all the counties and municipalities of this  
26 state in the manner specified in this section.

27 (c) The tax commissioner is hereby granted plenary  
28 power and authority to promulgate reasonable rules  
29 requiring the furnishing by oil and gas producers of such  
30 additional information as may be necessary to compute  
31 the allocation required under the provisions of subsection  
32 (f) of this section. The tax commissioner is also  
33 hereby granted plenary power and authority to promul-  
34 gate such other reasonable rules as may be necessary to  
35 implement the provisions of this section.

36 (d) In order to provide a procedure for the distribution  
37 of seventy-five percent of the dedicated tax on oil and  
38 gas to the oil and gas producing counties, there is hereby  
39 created in the state treasurer's office the special fund  
40 known as the "oil and gas county revenue fund"; and in  
41 order to provide a procedure for the distribution of the  
42 remaining twenty-five percent of the dedicated tax on oil  
43 and gas to all counties and municipalities of the state,  
44 without regard to oil and gas having been produced in  
45 those counties or municipalities, there is also hereby  
46 created in the state treasurer's office the special fund  
47 known as the "all counties and municipalities revenue  
48 fund".

49 Seventy-five percent of the dedicated tax on oil and  
50 gas shall be deposited in the "oil and gas county revenue  
51 fund" and twenty-five percent of the dedicated tax on oil  
52 and gas shall be deposited in the "all counties and  
53 municipalities revenue fund", from time to time, as the  
54 proceeds are received by the tax commissioner. The  
55 moneys in the funds shall, after appropriation of the  
56 moneys by the Legislature, be distributed to the respec-  
57 tive counties and municipalities entitled to the moneys  
58 in the manner set forth in subsection (e) of this section.

59 (e) The moneys in the "oil and gas county revenue  
60 fund" and the moneys in the "all counties and munic-  
61 ipalities revenue fund" shall be allocated among and  
62 distributed annually to the counties and municipalities  
63 entitled of the moneys by the state treasurer in the  
64 manner specified in this section. On or before each

65 distribution date, the state treasurer shall determine the  
66 total amount of moneys in each fund which will be  
67 available for distribution to the respective counties and  
68 municipalities entitled to the moneys on that distribu-  
69 tion date. The amount to which an oil and gas producing  
70 county is entitled from the "oil and gas county revenue  
71 fund" shall be determined in accordance with subsection  
72 (f) of this section, and the amount to which every county  
73 and municipality shall be entitled from the "all counties  
74 and municipalities revenue fund" shall be determined in  
75 accordance with subsection (g) of this section. After  
76 determining, as set forth in subsections (f) and (g) of this  
77 section, the amount each county and municipality is  
78 entitled to receive from the respective fund or funds, a  
79 warrant of the state auditor for the sum due to the  
80 county or municipality shall issue and a check drawn  
81 thereon making payment of the sum shall thereafter be  
82 distributed to the county or municipality.

83 (f) The amount to which an oil and gas producing  
84 county is entitled from the "oil and gas county revenue  
85 fund" shall be determined by:

86 (1) In the case of moneys derived from tax on the  
87 severance of gas:

88 (A) Dividing the total amount of moneys in the fund  
89 derived from tax on the severance of gas then available  
90 for distribution by the total volume of cubic feet of gas  
91 extracted in this state during the preceding year; and

92 (B) Multiplying the quotient thus obtained by the  
93 number of cubic feet of gas taken from the ground in the  
94 county during the preceding year; and

95 (2) In the case of moneys derived from tax on the  
96 severance of oil:

97 (A) Dividing the total amount of moneys in the fund  
98 derived from tax on the severance of oil then available  
99 for distribution by the total number of barrels of oil  
100 extracted in this state during the preceding year; and

101 (B) Multiplying the quotient thus obtained by the  
102 number of barrels of oil taken from the ground in the  
103 county during the preceding year.

104 (g) The amount to which each county and municipality  
105 is entitled from the "all counties and municipalities  
106 revenue fund" shall be determined in accordance with  
107 the provisions of this subsection. For purposes of this  
108 subsection "population" means the population as deter-  
109 mined by the most recent decennial census taken under  
110 the authority of the United States:

111 (1) The treasurer shall first apportion the total amount  
112 of moneys available in the "all counties and municipali-  
113 ties revenue fund" by multiplying the total amount in the  
114 fund by the percentage which the population of each  
115 county bears to the total population of the state. The  
116 amount thus apportioned for each county is the county's  
117 "base share".

118 (2) Each county's "base share" shall then be subdivided  
119 into two portions. One portion is determined by multi-  
120 plying the "base share" by that percentage which the  
121 total population of all unincorporated areas within the  
122 county bears to the total population of the county, and  
123 the other portion is determined by multiplying the "base  
124 share" by that percentage which the total population of  
125 all municipalities within the county bears to the total  
126 population of the county. The former portion shall be  
127 paid to the county and the latter portion shall be the  
128 "municipalities' portion" of the county's "base share".  
129 The percentage of the latter portion to which each  
130 municipality in the county is entitled shall be deter-  
131 mined by multiplying the total of the latter portion by  
132 the percentage which the population of each municipal-  
133 ity within the county bears to the total population of all  
134 municipalities within the county.

135 (h) Moneys distributed to any county or municipality  
136 under the provisions of this section, from either or both  
137 special funds, shall be deposited in the county or municip-  
138 al general fund and may be expended by the county

139 commission or governing body of the municipality for  
140 such purposes as the county commission or governing  
141 body shall determine to be in the best interest of its  
142 respective county or municipality: *Provided*, That in  
143 counties with population in excess of two hundred  
144 thousand at least seventy-five percent of the funds  
145 received from the oil and gas county revenue fund shall  
146 be apportioned to, and expended within the oil and gas  
147 producing area or areas of the county, the oil and gas-  
148 producing areas of each county to be determined gener-  
149 ally by the state tax commissioner: *Provided, however*,  
150 That the moneys distributed to any county or municipal-  
151 ity under the provisions of this section shall not be  
152 budgeted for personal services in an amount to exceed  
153 one fourth of the total amount of the moneys.

154 (i) On or before the twenty-eighth day of March, one  
155 thousand nine hundred ninety-seven, and each twenty-  
156 eighth day of March thereafter, each county commission  
157 or governing body of a municipality receiving any such  
158 moneys shall submit to the tax commissioner on forms  
159 provided by the tax commissioner a special budget,  
160 detailing how the moneys are to be spent during the  
161 subsequent fiscal year. The budget shall be followed in  
162 expending the moneys unless a subsequent budget is  
163 approved by the state tax commissioner. All unex-  
164 pended balances remaining in the county or municipality  
165 general fund at the close of a fiscal year shall remain in  
166 the general fund and may be expended by the county or  
167 municipality without restriction.

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

176 (k) The state tax commissioner shall retain for the

177 benefit of the state from the dedicated tax attributable  
178 to the severance of oil and gas the amount of thirty-five  
179 thousand dollars annually as a fee for the administration  
180 of the additional tax by the tax commissioner.



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

*Andy Schoonover*  
.....  
Chairman Senate Committee

*Andy Seavint*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage

*Narsell P. Holmes*  
.....  
Clerk of the Senate

*Bryan W. Fox*  
.....  
Clerk of the House of Delegates

*Carl Ray Tomblin*  
.....  
President of the Senate

*Ed Rubin*  
.....  
Speaker House of Delegates

The within *is approved* this the *21<sup>st</sup>*  
day of *January*, 1996.

*Patton Capriote*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 2/19/96

Time 10:21am