

HB 2931

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



ENROLLED

House Bill No. 2931

(By Delegates White and Campbell)



Passed April 11, 2009

In Effect Ninety Days from Passage

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H. B. 2931

OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES WHITE AND CAMPBELL)

[Passed April 11, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §11-13A-3b of the Code of West Virginia, 1931, as amended; and to amended and reenact §11-13V-4 of said code, all relating to removing a severance tax on timber for tax years 2010 through 2012, inclusive.

Be it enacted by the Legislature of West Virginia:

That §11-13A-3b of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §11-13V-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 13A. SEVERANCE TAXES.

§11-13A-3b. Imposition of tax on privilege of severing timber.

- 1 (a) *Imposition of tax.* -- For the privilege of engaging or
- 2 continuing within this state in the business of severing timber
- 3 for sale, profit or commercial use, there is hereby levied and
- 4 shall be collected from every person exercising such privilege
- 5 an annual privilege tax.

6 (b) *Rate and measure of tax.* -- The tax imposed in
7 subsection (a) of this section shall be three and twenty-two
8 hundredths percent of the gross value of the timber produced,
9 as shown by the gross proceeds derived from the sale thereof
10 by the producer, except as otherwise provided in this article:
11 *Provided,* That as to timber produced after December 31,
12 2006 the rate of the tax imposed in subsection (a) of this
13 section shall be one and twenty-two hundredths percent of
14 the gross value of the timber produced, as shown by the gross
15 proceeds derived from the sale thereof by the producer,
16 except as otherwise provided in this article.

17 (c) *Tax in addition to other taxes.* -- The tax imposed by
18 this section shall apply to all persons severing timber in this
19 state and shall be in addition to all other taxes imposed by
20 law.

21 (d) *Elimination of tax.*-- Beginning in the tax year 2010
22 and continuing for two consecutive tax years thereafter, the
23 tax imposed by this section is discontinued.

ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.

§11-13V-4. Imposition of tax.

1 (a) *Imposition of additional tax on privilege of severing*
2 *coal.* -- Upon every person exercising the privilege of
3 engaging within this state in severing, extracting, reducing to
4 possession or producing coal for sale, profit or commercial
5 use, there is hereby imposed an additional annual severance
6 tax for exercising the privilege after November 30, 2005.
7 The tax shall be \$.56 per ton and the measure of the tax is
8 tons of clean coal severed or produced in this state by the
9 taxpayer after November 30, 2005, for sale, profit or
10 commercial use during the taxable year. When the person

11 mining the coal sells raw coal, the measure of tax shall be ton
12 of clean coal determined in accordance with rules
13 promulgated by the Tax Commissioner as provided in article
14 three, chapter twenty-nine-a of this code. If this rule is filed
15 for public comment before July 1, 2005, the rule may be
16 promulgated as an emergency legislative rule. This tax shall
17 be in addition to all taxes imposed with respect to the
18 severance and production of coal in this state including, but
19 not limited to, the taxes imposed by articles twelve-d and
20 thirteen-a of this chapter and the taxes imposed by sections
21 eleven and thirty-two, article three, chapter twenty-two of
22 this code, if applicable.

23 (b) *Imposition of additional tax on privilege of severing*
24 *natural gas.* -- For the privilege of engaging or continuing
25 within this state in the business of severing natural gas for
26 sale, profit or commercial use, there is hereby levied and
27 shall be collected from every person exercising this privilege
28 an additional annual privilege tax. The rate of this additional
29 tax shall be \$.047 per mcf of natural gas and the measure of
30 the tax is natural gas produced after November 30, 2005,
31 determined at the point where the production privilege ends
32 for purposes of the tax imposed by section three-a, article
33 thirteen-a of this chapter, and with respect to which the tax
34 imposed by section three-a of said article thirteen-a is paid.
35 The additional tax imposed by this subsection shall be
36 collected with respect to natural gas produced after
37 November 30, 2005.

38 (c) *Imposition of additional tax on privilege of severing*
39 *timber.* -- For the privilege of engaging or continuing within
40 this state in the business of severing timber for sale, profit or
41 commercial use, there is hereby levied and shall be collected
42 from every person exercising this privilege an additional
43 annual privilege tax equal to two and seventy-eight
44 hundredths percent of the gross value of the timber produced,

45 determined at the point where the production privilege ends
46 for purposes of the tax imposed by section three-b, article
47 thirteen-a of this chapter and upon which the tax imposed by
48 section three-b of said article thirteen-a is paid. The
49 additional tax imposed by this subsection shall be collected
50 with respect to timber produced after November 30, 2005:
51 *Provided*, That during the period of discontinuance of the tax
52 as provided in subsection (d), section three-b, article
53 thirteen-a of this chapter, the additional tax imposed by this
54 subsection shall be determined as provided in this subsection
55 in the same manner as if the tax described under section
56 three-b, article thirteen-a of this chapter is being imposed and
57 collected, subject to the provisions of subsection (g) of this
58 section.

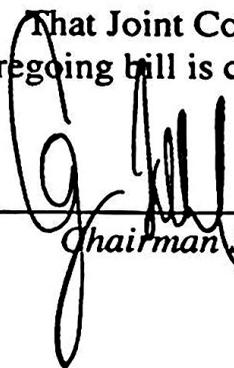
59 (d) *No pyramiding of tax burden.* -- Each ton of coal and
60 each mcf of natural gas severed in this state after the effective
61 date of the taxes imposed by this section shall be included in
62 the measure of a tax imposed by this section only one time.

63 (e) *Effect on utility rates.* -- The Public Service
64 Commission shall, upon the application of any public utility
65 that, as of the effective date of the taxes imposed by this
66 section, is not currently making periodic adjustments to its
67 approved rates and charges to reflect changes in its fuel costs
68 because the mechanism historically used to make such
69 periodic adjustments is suspended by an order of the
70 commission, allow such utility to defer, for future recovery
71 from its customers, any increase in its costs attributable to the
72 taxes imposed by this section upon: Coal and natural gas
73 severed in this state and utilized in the production of
74 electricity generated or produced in this state and sold to
75 customers in this state; coal and natural gas severed in this
76 state and utilized in the production of electricity not
77 generated or produced in this state that is sold to customers
78 in this state; and natural gas severed in this state that is sold
79 to customers in this state.

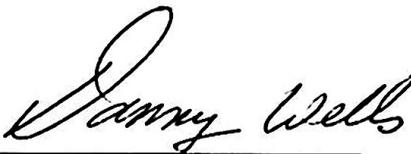
80 (f) *Dedication of new taxes.* -- The net amount of all
81 moneys received by the Tax Commissioner from collection
82 of the taxes imposed by this section, including any interest,
83 additions to tax, or penalties collected with respect to these
84 taxes pursuant to article ten, chapter eleven of this code, shall
85 be deposited in the Workers' Compensation Debt Reduction
86 Fund created in article two-d, chapter twenty-three of this
87 code. As used in this section, "net amount of all taxes
88 received by the Tax Commissioner" means the gross amount
89 received by the Tax Commissioner less the amount of any
90 refunds paid for overpayment of the taxes imposed by this
91 article, including the amount of any interest on the
92 overpayment amount due the taxpayer under the provisions
93 of section fourteen, article ten of this chapter. .

94 (g) *Sunset expiration date of taxes.* -- The new taxes
95 imposed by this section shall expire and not be imposed with
96 respect to privileges exercised on and after the first day of the
97 month following the month in which the Governor certifies
98 to the Legislature that: (1) The revenue bonds issued
99 pursuant to article two-d, chapter twenty-three of this code,
100 have been retired, or payment of the debt service provided
101 for; and (2) that an independent certified actuary has
102 determined that the unfunded liability of the old fund, as
103 defined in chapter twenty-three of this code, has been paid or
104 provided for in its entirety. Expiration of the taxes imposed
105 in this section as provided in this subsection shall not relieve
106 any person from payment of any tax imposed with respect to
107 privileges exercised before the expiration date.

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



Chairman Senate Committee



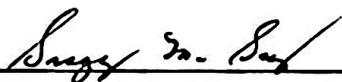
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

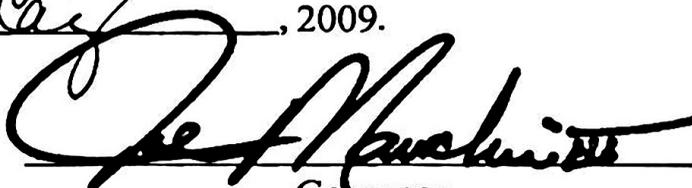


President of the Senate



Speaker of the House of Delegates

The within is approved this the 12th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY · 6 2009

Time 3:45