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
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 continuing within this state in the business of severing timber for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.
(b) Rate and measure of tax. -- The tax imposed in subsection (a) of this section shall be three and twenty-two hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article:

Provided, That as to timber produced after December 31, 2006 the rate of the tax imposed in subsection (a) of this section shall be one and twenty-two hundredths percent of the gross value of the timber produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

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

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

ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.

§11-13V-4. Imposition of tax.

(a) Imposition of additional tax on privilege of severing coal. -- Upon every person exercising the privilege of engaging within this state in severing, extracting, reducing to possession or producing coal for sale, profit or commercial use, there is hereby imposed an additional annual severance tax for exercising the privilege after November 30, 2005. The tax shall be $.56 per ton and the measure of the tax is tons of clean coal severed or produced in this state by the taxpayer after November 30, 2005, for sale, profit or commercial use during the taxable year. When the person
mining the coal sells raw coal, the measure of tax shall be ton
of clean coal determined in accordance with rules
promulgated by the Tax Commissioner as provided in article
three, chapter twenty-nine-a of this code. If this rule is filed
for public comment before July 1, 2005, the rule may be
promulgated as an emergency legislative rule. This tax shall
be in addition to all taxes imposed with respect to the
severance and production of coal in this state including, but
not limited to, the taxes imposed by articles twelve-d and
thirteen-a of this chapter and the taxes imposed by sections
eleven and thirty-two, article three, chapter twenty-two of
this code, if applicable.

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

(c) Imposition of additional tax on privilege of severing
timber. -- For the privilege of engaging or continuing within
this state in the business of severing timber for sale, profit or
commercial use, there is hereby levied and shall be collected
from every person exercising this privilege an additional
annual privilege tax equal to two and seventy-eight
hundredths percent of the gross value of the timber produced,
determined at the point where the production privilege ends
for purposes of the tax imposed by section three-b, article
thirteen-a of this chapter and upon which the tax imposed by
section three-b of said article thirteen-a is paid. The
additional tax imposed by this subsection shall be collected
with respect to timber produced after November 30, 2005:
Provided, That during the period of discontinuance of the tax
as provided in subsection (d), section three-b, article
thirteen-a of this chapter, the additional tax imposed by this
subsection shall be determined as provided in this subsection
in the same manner as if the tax described under section
three-b, article thirteen-a of this chapter is being imposed and
collected, subject to the provisions of subsection (g) of this
section.

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

(e) Effect on utility rates. -- The Public Service
Commission shall, upon the application of any public utility
that, as of the effective date of the taxes imposed by this
section, is not currently making periodic adjustments to its
approved rates and charges to reflect changes in its fuel costs
because the mechanism historically used to make such
periodic adjustments is suspended by an order of the
commission, allow such utility to defer, for future recovery
from its customers, any increase in its costs attributable to the
taxes imposed by this section upon: Coal and natural gas
severed in this state and utilized in the production of
electricity generated or produced in this state and sold to
customers in this state; coal and natural gas severed in this
state and utilized in the production of electricity not
generated or produced in this state that is sold to customers
in this state; and natural gas severed in this state that is sold
to customers in this state.
(f) *Dedication of new taxes.* -- The net amount of all moneys received by the Tax Commissioner from collection of the taxes imposed by this section, including any interest, additions to tax, or penalties collected with respect to these taxes pursuant to article ten, chapter eleven of this code, shall be deposited in the Workers' Compensation Debt Reduction Fund created in article two-d, chapter twenty-three of this code. As used in this section, "net amount of all taxes received by the Tax Commissioner" means the gross amount received by the Tax Commissioner less the amount of any refunds paid for overpayment of the taxes imposed by this article, including the amount of any interest on the overpayment amount due the taxpayer under the provisions of section fourteen, article ten of this chapter.

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

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