Committee Substitute
for

House Bill 4668

(BY DELEGATES BYRD, J. NELSON, MARCUM, PHILLIPS,
ROWE, MCCUSKEY, STANSBURY, B. WHITE, E. NELSON,
GUTHRIE AND PUSHKIN)

[Passed on March 12, 2016; in effect July 1, 2016.]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4668

(By Delegates Byrd, J. Nelson, Marcum, Phillips, Rowe, McCuskey, Stansbury, B. White, E. Nelson, Guthrie and Pushkin)

[Passed on March 12, 2016; in effect July 1, 2016.]
AN ACT to amend and reenact §11-13A-8 of the Code of West Virginia, 1931, as amended, relating to raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services from one fourth to one half; and directing State Auditor report of county special budgets to Joint Committee on Government and Finance.

Be it enacted by the Legislature of West Virginia:

That §11-13A-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§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; 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; 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 this article is measured as shown by the gross proceeds derived from the sale of the coal by the producer, multiplied by thirty-five one hundredths of one percent. The tax imposed by this subsection is in addition to the tax imposed by section three of this article, and this additional tax is referred to in this section 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 be distributed by the State Treasurer in the manner specified in this section 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 referred to in this section as the "coal-producing counties". The remaining twenty-five percent of the net proceeds of this additional tax on coal shall be distributed among all the counties and municipalities of this state in the manner specified in this section.

(c) The additional tax on coal shall be due and payable, reported and remitted as elsewhere provided in this article for the tax imposed by section three of this article, and all of the enforcement and other provisions of this article shall apply to the 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-seven, article two, chapter twenty-two-a of this code, the Tax Commissioner is hereby granted plenary power and authority to promulgate reasonable rules 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 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 the additional tax on coal to the coal-producing counties, the special fund known as the "county coal revenue fund" established in the State Treasurer's office by chapter one hundred sixty-two, Acts of the Legislature, 1985 regular session, as amended and reenacted in subsequent acts of the Legislature, is hereby continued. In order to provide a procedure for the distribution of
the remaining twenty-five percent of the net proceeds of the additional tax on coal to all counties
and municipalities of the state, without regard to coal having been produced therein, the special
fund known as the "all counties and municipalities revenue fund" established in the State
Treasurer's office by chapter one hundred sixty-two, acts of the Legislature, 1985 regular session,
as amended and reenacted in subsequent acts of the Legislature, is hereby redesignated as the
"all counties and municipalities coal revenue fund" and is hereby continued.

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 the net proceeds shall be deposited in
the all counties and municipalities coal revenue fund, from time to time, as the proceeds are
received by the Tax Commissioner. The moneys in the funds shall be distributed to the respective
counties and municipalities entitled to the moneys 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 coal revenue fund shall be allocated among and distributed quarterly to the counties
and municipalities entitled to the moneys by the State Treasurer in the manner specified in this
section. On or before each distribution date, the State Treasurer shall determine the total amount
of moneys in each fund which will be available for distribution to the respective counties and
municipalities entitled to the moneys 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 is
entitled from the all counties and municipalities coal revenue fund shall be determined in
accordance with subsection (g) of this section. After determining as set forth in subsection (f) and
subsection (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 each county or
municipality shall issue and a check drawn thereon making payment of such amount shall
thereafter be distributed to each 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 the 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 the county during the preceding quarter.

(g) The amount to which each county and municipality is entitled from the all counties and municipalities coal revenue fund shall be determined in accordance with the provisions of this subsection. For purposes of this subsection "population" means 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 coal revenue fund by multiplying the total amount in the 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 is the county's "base share".

(2) Each county's base share shall then be subdivided into two portions. One portion is 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 is 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 is the "municipalities' portion" of the county's base share. The percentage of the latter portion to which each municipality in the county is entitled shall be determined by multiplying the total of the 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 the coal severance tax revenue fund,
in compliance with subsection (i) of this section, may be expended by the county commission or
governing body of the municipality for such public purposes as the county commission or
governing body shall determine to be in the best interest of the people of its respective county or
municipality: *Provided,* That in counties with population in excess of two hundred thousand, at
least seventy-five percent of the funds received from the county coal revenue fund shall be
apportioned to, and expended within the coal-producing area or areas of the county, said coal-
producing areas of each county to be determined generally by the State Tax Commissioner:
*Provided, however,* That the coal severance tax revenue fund moneys shall not be budgeted for
personal services in an amount to exceed one half of the total funds available in such fund.

(i) On or before March 28, 1986, and each March 28 thereafter, each county commission
or governing body of a municipality receiving such revenue shall submit to the State Auditor on
forms provided by the State Auditor a special budget, detailing how such revenue is to be spent
during the subsequent fiscal year. Such budget shall be followed in expending the revenue unless
a subsequent budget is approved by the State Tax Commissioner. All unexpended balances
remaining in coal severance tax revenue fund at the close of a fiscal year shall be reappropriated
to the budget of the county commission or governing body for the subsequent fiscal year. The
reappropriation shall be entered as an amendment to the new budget and submitted to the Tax
Commissioner on or before July 15, of the current budget year.

(j) On or before December 15, 1986, and each December 15 thereafter, the State Auditor
shall deliver to the clerk of the Joint Committee on Government and Finance, a consolidated
report of the special budgets, created by subsection (i) of this section, for all county commissions
and municipalities as of July 15, 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 $35,000 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, House Committee

Chairman, Senate Committee

Originating in the House.

In effect July 1, 2016.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within ..is... disapprovd... this the...1st...

day of...April...

Governor
PRESENTED TO THE GOVERNOR

May 23, 2015

Time 2:05 p.m.