



1 SB166
2 136138-1
3 By Senator Bedford
4 RFD: Finance and Taxation General Fund
5 First Read: 07-FEB-12



1 136138-1 : n : 02/01/2012 : LFO-KF / csh

2

3

4

5

6

7

8

SYNOPSIS: Under existing law, prior to October 1, 2011, the state collected two coal severance tax levies of \$.135 and \$.20 per ton. The \$.135 per ton tax was established in 1971 and the \$.20 per ton tax in 1977. The \$.135 per ton levy terminated on October 1, 2011. At the time this tax terminated, the proceeds from this tax were used, if necessary, to pay debt service on revenue bonds of the State Docks, and remaining proceeds were distributed to the Alabama Mining Academy, various local government entities, and the State General Fund.

9

10

11

12

13

14

15

16

17

18

19

This bill would re-establish the state \$.135 per ton coal severance tax and provide for the distribution of proceeds.

20

21

22

23

A BILL

24

TO BE ENTITLED

25

AN ACT

26



1 To re-establish the state \$.135 per ton coal
2 severance tax which expired October 1, 2011; and to provide
3 for the distribution of proceeds.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. For the purposes of this article, the
6 following terms shall have the respective meanings ascribed to
7 them by this section:

8 (1) BONDS. Any revenue bonds or notes that may at
9 any time be issued by the Alabama State Docks Department
10 pursuant to authorization in Act No. 64, p. 115, of the
11 Alabama Legislature of 1971 (First Special Session), as same
12 may be amended from time to time, for the purpose of
13 constructing any seaport facility.

14 (2) COMMISSIONER. The Commissioner of Revenue of the
15 Department of Revenue of the State of Alabama.

16 (3) PERSON. Any individual, firm, partnership,
17 corporation, association, or any combination thereof.

18 (4) PRODUCER. Any person engaging in the business of
19 severing coal from the soil within this state.

20 (5) PURCHASER. Any person acquiring title, outright
21 or conditionally, to any interest in severed coal.

22 (6) SEVER. Cutting, mining, stripping, or otherwise
23 taking or removing from the soil within Alabama.

24 (7) SEAPORT FACILITY. Any improvements, including
25 any real or personal property, structure or equipment useful
26 for any one or more of the loading, unloading, storage, or



1 other handling of coal, coke, or any other materials or
2 products of any kind that are useful in promoting, developing,
3 and operating seaports within this state and that are
4 constructed with the proceeds from the bonds as defined
5 herein.

6 (8) TON. A short ton of 2,000 pounds.

7 (9) TRANSPORTER. Any person transporting coal from
8 the place where it is severed or from any other place to any
9 other place within or without the State of Alabama.

10 Section 2. There is hereby levied, in addition to
11 all other taxes imposed by law, an excise and privilege tax on
12 every person severing coal within Alabama. This tax shall be
13 paid to the commissioner by every producer who severs coal
14 within Alabama at the rate of \$.135 per ton of coal severed.

15 Section 3. Every producer shall, within 20 days
16 after the end of each calendar month, whether or not he shall
17 have actually severed any coal during the preceding month,
18 file with the commissioner a report. The report shall set
19 forth, in a form to be prescribed by the commissioner, the
20 amount of coal in tons, if any, severed by such producer
21 during the next preceding calendar month, the point of
22 severance thereof, the amount of tax due and such other
23 information as the commissioner may reasonably require for the
24 proper enforcement of the provisions of this article. The
25 producer shall accompany such report with payment of the full
26 amount of the tax shown to be due. The said report shall be



1 signed by the producer himself in the instance of any
2 individual producer, and by a member or officer or the manager
3 of the producer in all other instances.

4 Section 4. Purchasers and transporters of coal shall
5 file a report with the commissioner, upon forms prescribed by
6 the commissioner, within 20 days after the end of each
7 calendar month. The report shall state the names and addresses
8 of all producers from whom such purchaser or transporter has
9 received coal during the respective said calendar month, the
10 total quantity of coal so acquired and, in the case of a
11 transporter, to whom and where each ton of coal was delivered,
12 and such further information as the commissioner reasonably
13 may require for the proper enforcement of the provisions of
14 this article. The said report shall be signed by the purchaser
15 or transporter himself, in the instance of an individual
16 purchaser or transporter, and by a member or officer or the
17 manager of the purchaser or transporter in all other
18 instances.

19 Section 5. (a) The entire proceeds from the
20 privilege or license tax levied by this act shall be deposited
21 in the State Treasury to the credit of the Alabama State Docks
22 Bulk Handling Facility Trust Fund. The proceeds from the
23 special handling charge provided for by Act No. 2306 of the
24 1971 Regular Session of the Legislature shall be deposited in
25 the State Treasury to the credit of a fund to be created and
26 known as the Special Handling Charge Fund.



1 (b) The amounts deposited into such funds shall be
2 disbursed and are hereby appropriated to the extent necessary
3 for such purpose, to pay at their respective maturities, or to
4 redeem under the terms thereof, principal of and interest on
5 any revenue bonds that may at any time be issued pursuant to
6 authorization and any statute adopted at the 1971 Regular
7 Session of the Alabama Legislature or at any other legislative
8 session prior thereto for the purpose of constructing any
9 seaport facility; provided, that amounts deposited into the
10 Special Handling Charge Fund shall be first expended to the
11 extent necessary for such purposes before any amounts are
12 drawn from the Alabama State Docks Bulk Handling Facility
13 Trust Fund.

14 (c) From the balance remaining in the Special
15 Handling Charge Fund during each fiscal year there is hereby
16 appropriated and there shall be paid by the State Treasurer
17 into a reserve fund or funds established for the bonds until
18 there is on deposit an amount equal to the maximum principal
19 and interest becoming due on the bonds in any one year; to the
20 extent that the balance remaining in the Special Handling
21 Charge Fund is inadequate to fully fund the reserve fund, the
22 reserve fund shall be funded from the Alabama State Docks Bulk
23 Handling Facility Trust Fund.

24 (d) The balance thereafter remaining in the Alabama
25 State Docks Bulk Handling Facility Trust Fund during each
26 fiscal year shall be transferred as provided by Section 6.



1 (e) The balance, if any, in the Special Handling
2 Charge Fund is hereby appropriated and shall be used by the
3 State Treasurer to pay, at his discretion, principal and
4 interest on the bonds in future years or to redeem portions of
5 the bonds.

6 Section 6. (a) In each fiscal year when the funds
7 then on deposit in the special fund or funds created for
8 retirement of the bonds equal the amount needed to pay all the
9 principal and interest becoming payable on the bonds within
10 the succeeding 12 months and the funds then on deposit in the
11 reserve fund or funds created for the bonds equal the maximum
12 principal and interest becoming due on the bonds in any one
13 year, the severance tax proceeds remaining in the Alabama
14 State Docks Bulk Handling Facility Trust Fund, shall be
15 credited to the State General Fund; provided however, that if
16 at the end of any fiscal year of the state, the Director of
17 the Alabama State Docks Department shall have notified the
18 Director of Finance in writing, at least five days prior to
19 the close of the fiscal year, that the revenues to be derived
20 by the Alabama State Docks Department from the operations of
21 its coal handling facilities for the then current fiscal year
22 are anticipated to be insufficient to pay the aggregate of (1)
23 the expenses (exclusive of depreciation) incurred in operating
24 and maintaining the facilities during such fiscal year and (2)
25 principal and interest that came due during such fiscal year
26 on those bonds of the Alabama State Docks Department for



1 payment of which the revenues have been pledged (which
2 notification shall specify the amount of the expected
3 deficiency), then the remaining severance tax proceeds shall
4 remain in the Alabama State Docks Bulk Handling Facility Trust
5 Fund and shall not be transferred to the State General Fund.
6 Following the filing of such notification, a report shall be
7 filed by the Director of the Alabama State Docks Department
8 with the Director of Finance within 30 days after the close of
9 such fiscal year, supported by such documentation as may be
10 deemed appropriate by the Director of Finance and attesting to
11 the amount of the actual deficiency, computed as described
12 above, incurred in the operation of the facilities during the
13 immediately preceding fiscal year. Upon receipt of the report
14 and such other documentation from the department as the
15 Director of Finance may specify, the Director of Finance, if
16 satisfied as to the accuracy of the amount of the actual
17 deficiency as reflected in the report and accompanying
18 documentation, shall authorize to be transferred, and to the
19 extent herein provided there is hereby in such event
20 appropriated, to the Alabama State Docks Department an amount
21 equal to the lesser of (i) the actual amount of any deficiency
22 computed as described herein or (ii) the balance contained in
23 the Alabama State Docks Bulk Handling Facility Trust Fund as
24 of the immediately preceding September 30. The first three
25 hundred thousand dollars (\$300,000) of any moneys remaining in
26 the Alabama State Docks Bulk Handling Facility Trust Fund



1 after such transfer to the Alabama State Docks Department
2 shall be transferred directly to the Alabama Mining Academy.
3 Five hundred thousand dollars (\$500,000) shall be transferred
4 to the Tuscaloosa County General Fund; five hundred thousand
5 dollars (\$500,000) to the Jefferson County General Fund; and
6 two hundred thousand dollars (\$200,000) to the Walker County
7 Economic and Industrial Development Authority and any
8 remaining moneys shall be credited to the State General Fund.
9 The Tuscaloosa County General Fund allocation shall be
10 distributed as follows: One hundred thousand dollars
11 (\$100,000) to the Town of Vance; one hundred thousand dollars
12 (\$100,000) to the Town of Brookwood; one hundred twenty-five
13 thousand dollars (\$125,000) to the Tuscaloosa County Public
14 Library; and one hundred seventy-five thousand dollars
15 (\$175,000) to the Tuscaloosa County Board of Education. In any
16 year in which the total amount allocated to the Tuscaloosa
17 County General Fund, the Jefferson County General Fund, and
18 the Walker County Economic and Industrial Development
19 Authority is insufficient to provide the total allocations for
20 the three, the amount that is available shall be prorated
21 among the three in the same proportion as the designated
22 allocations. In the event the Tuscaloosa County General Fund
23 receives less than five hundred thousand dollars (\$500,000),
24 the distributions to the Town of Vance, the Town of Brookwood,
25 and the Tuscaloosa County Public Library shall collectively
26 have priority. In the event the allocation to the Tuscaloosa



1 County General Fund is less than three hundred twenty-five
2 thousand dollars (\$325,000), the total amount available shall
3 be prorated among the Town of Vance, the Town of Brookwood,
4 and the Tuscaloosa County Public Library in the same
5 proportion as the designated allocations.

6 (b) In addition to the above amounts, one hundred
7 thousand dollars (\$100,000) shall be transferred to the
8 Community Development Foundation, Inc., one hundred thousand
9 dollars (\$100,000) shall be transferred to the Marion County
10 Community Development Association, Inc., one hundred thousand
11 dollars (\$100,000) shall be transferred to the West Alabama
12 Development Association of Fayette County, one hundred
13 thousand dollars (\$100,000) shall be transferred to the
14 Jackson County Economic Development Association, fifty
15 thousand dollars (\$50,000) shall be transferred to the Winston
16 County Industrial Development Board, and one hundred thousand
17 dollars (\$100,000) shall be transferred to the West Alabama
18 Economic Development Association.

19 Any foundation or association receiving funds
20 pursuant to this amendatory act shall be annually audited by
21 the Examiners of Public Accounts and such audit shall be
22 submitted to the Legislature each legislative session.

23 (c) Of the above amount to the Alabama Mining
24 Academy, a small portion of said sum shall be used to retrain
25 Alabama coal miners, who have been terminated from their
26 employment, for other occupational opportunities.



1 Section 7. The excise and privilege tax imposed by
2 this article shall terminate on October 1, 2016, unless
3 extended by an act of the Legislature of the State of Alabama.

4 Section 8. No political subdivision of the State of
5 Alabama, including counties, cities, special taxing districts
6 or other taxing instrumentalities, shall levy a tax upon the
7 excise or privilege of severing coal in Alabama. It is the
8 intent hereof that all taxing authority upon the excise or
9 privilege of severing coal as is granted in Section 2 shall
10 inure to the State of Alabama exclusively.

11 Section 9. Any producer, purchaser or transporter
12 who shall fail to comply with the provisions of this article
13 shall be guilty of a misdemeanor and upon conviction thereof
14 shall be fined not less than \$100 nor more than \$500 for each
15 such offense, and the willful filing of any false report shall
16 constitute perjury and shall be punished as such.

17 Section 10. All laws or parts of laws which conflict
18 with this act are repealed.

19 Section 11. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.