

1 HB219
2 208274-4
3 By Representative South
4 RFD: Ways and Means General Fund
5 First Read: 02-FEB-21
6 PFD: 01/29/2021

1 ENGROSSED

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4 A BILL

5 TO BE ENTITLED

6 AN ACT

7

8 Relating to coal severance tax; to amend Sections

9 40-13-6 and 40-13-8 of the Code of Alabama 1975, to further

10 provide for the distribution of certain additional severance

11 tax revenue; to provide for the earmarking of the distribution

12 of the balance of the proceeds for the operation of the

13 Surface Mining Commission; and to extend the tax.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 40-13-6 and 40-13-8, Code of

16 Alabama 1975, are amended to read as follows:

17 "§40-13-6.

18 "(a) In each fiscal year when the funds then on

19 deposit in the special fund or funds created for retirement of

20 the bonds equal the amount needed to pay all the principal and

21 interest becoming payable on the bonds within the succeeding

22 12 months and the funds then on deposit in the reserve fund or

23 funds created for the bonds equal the maximum principal and

24 interest becoming due on the bonds in any one year, the

25 severance tax proceeds remaining in the Alabama State Docks

26 Bulk Handling Facility Trust Fund, shall be distributed as

27 provided herein; provided however, that if at the end of any

1 fiscal year of the state, beginning with the fiscal year
2 ending September 30, 1987, the Director of the Alabama State
3 Docks Department shall have notified the Director of Finance
4 in writing, at least five days prior to the close of the
5 fiscal year, that the revenues to be derived by the Alabama
6 State Docks Department from the operations of its coal
7 handling facilities for the then current fiscal year are
8 anticipated to be insufficient to pay the aggregate of (1) the
9 expenses (exclusive of depreciation) incurred in operating and
10 maintaining the facilities during such fiscal year and (2)
11 principal and interest that came due during such fiscal year
12 on those bonds of the Alabama State Docks Department for
13 payment of which the revenues have been pledged (which
14 notification shall specify the amount of the expected
15 deficiency), then the remaining severance tax proceeds shall
16 remain in the Alabama State Docks Bulk Handling Facility Trust
17 Fund. Following the filing of such notification, a report
18 shall be filed by the Director of the Alabama State Docks
19 Department with the Director of Finance within 30 days after
20 the close of such fiscal year, supported by such documentation
21 as may be deemed appropriate by the Director of Finance and
22 attesting to the amount of the actual deficiency, computed as
23 described above, incurred in the operation of the facilities
24 during the immediately preceding fiscal year. Upon receipt of
25 the report and such other documentation from the department as
26 the Director of Finance may specify, the Director of Finance,
27 if satisfied as to the accuracy of the amount of the actual

1 deficiency as reflected in the report and accompanying
2 documentation, shall authorize to be transferred, and to the
3 extent herein provided there is hereby in such event
4 appropriated, to the Alabama State Docks Department an amount
5 equal to the lesser of (i) the actual amount of any deficiency
6 computed as described herein or (ii) the balance contained in
7 the Alabama State Docks Bulk Handling Facility Trust Fund as
8 of the immediately preceding September 30.

9 "(b) Beginning with the 1992-93 fiscal year, the
10 first three hundred thousand dollars (\$300,000) of any moneys
11 remaining in the Alabama State Docks Bulk Handling Facility
12 Trust Fund after such transfer to the Alabama State Docks
13 Department shall be transferred directly to the Alabama Mining
14 Academy.

15 "(c) For the fiscal year 2011-2012, any moneys
16 remaining in the Alabama State Docks Bulk Handling Facility
17 Trust Fund after such transfers to the Alabama State Docks
18 Department and the Alabama Mining Academy shall be distributed
19 as follows:

20 "(1) Five hundred thousand dollars (\$500,000) shall
21 be transferred to the Tuscaloosa County General Fund; five
22 hundred thousand dollars (\$500,000) to the Jefferson County
23 General Fund; and two hundred thousand dollars (\$200,000) to
24 the Walker County Economic and Industrial Development
25 Authority. The Tuscaloosa County General Fund allocation shall
26 be distributed as follows: One hundred thousand dollars
27 (\$100,000) to the Town of Vance; one hundred thousand dollars

1 (\$100,000) to the Town of Brookwood; one hundred twenty-five
2 thousand dollars (\$125,000) to the Tuscaloosa County Public
3 Library; and one hundred seventy-five thousand dollars
4 (\$175,000) to the Tuscaloosa County Board of Education. If the
5 total amount available for distribution to the Tuscaloosa
6 County General Fund, the Jefferson County General Fund, and
7 the Walker County Economic and Industrial Development
8 Authority is insufficient to provide the total allocations for
9 the three, the amount that is available shall be prorated
10 among the three in the same proportion as the designated
11 allocations. In the event the Tuscaloosa County General Fund
12 receives less than five hundred thousand dollars (\$500,000),
13 the distributions to the Tuscaloosa County Board of Education
14 and Tuscaloosa County Public Library shall collectively have
15 priority. In the event the allocation to the Tuscaloosa County
16 General Fund is less than three hundred twenty-five thousand
17 dollars (\$325,000), the total amount available shall be
18 prorated among the Tuscaloosa County Board of Education and
19 the Tuscaloosa County Public Library in the same proportion as
20 the designated allocations.

21 "(2) From any moneys remaining after the allocations
22 in subdivision (1), one hundred thousand dollars (\$100,000)
23 shall be transferred to the Community Development Foundation,
24 Inc., fifty thousand dollars (\$50,000) shall be transferred to
25 the Marion County Community Development Association, Inc.,
26 fifty thousand dollars (\$50,000) shall be transferred to the
27 West Alabama Development Association of Fayette County, one

1 hundred thousand dollars (\$100,000) shall be transferred to
2 the Jackson County Economic Development Association, and one
3 hundred thousand dollars (\$100,000) shall be transferred to
4 the West Alabama Economic Development Association. If the
5 total moneys available for distribution to the Community
6 Development Foundation, Inc., the Marion County Development
7 Association, Inc., the West Alabama Development Association of
8 Fayette County, the Jackson County Economic Development
9 Association, and the West Alabama Economic Development
10 Association are insufficient to provide the total allocations
11 for the five, the amount that is available shall be allocated
12 proportionately.

13 "Any foundation or association receiving funds
14 pursuant to this section shall be annually audited by the
15 Examiners of Public Accounts and such audit shall be submitted
16 to the Legislature each legislative session.

17 "(3) Any county producing coal that has not
18 previously received an allocation shall receive an allocation
19 based upon tonnage produced in their county using 60 percent
20 of severance tax.

21 "(4) Any moneys remaining after the distributions in
22 subdivisions (1), (2), and (3) shall be transferred to the
23 State General Fund.

24 "(d) For the fiscal year 2012-2013, any moneys
25 remaining in the Alabama State Docks Bulk Handling Facility
26 Trust Fund after any transfers to the Alabama State Docks

1 Department and the Alabama Mining Academy shall be distributed
2 as follows:

3 "(1)a. The Tuscaloosa County General Fund, Jefferson
4 County General Fund, and Walker County Economic and Industrial
5 Development Authority shall receive 50 percent of the
6 designated allocations provided in subsection (c) (1), unless
7 insufficient moneys are available for the distributions; in
8 which case, a pro rata amount shall be received.

9 "b. However, if 60 percent of the remaining moneys
10 available for distribution to the Tuscaloosa County General
11 Fund, Jefferson County General Fund, and Walker County
12 Economic and Industrial Development Authority exceed 50
13 percent of the designated allocations to the three, as
14 provided in subsection (c) (1), then the three shall receive
15 the same proportion of 60 percent of the remaining moneys
16 available for distribution as provided by the designated
17 allocations.

18 " c. Notwithstanding any other provision, ~~for the~~
19 ~~fiscal year 2012-2013~~ through the fiscal years 2015-2021 year
20 ending September 30, 2031, the Tuscaloosa County General Fund
21 allocation shall be distributed as follows: Two hundred
22 twenty-five thousand dollars (\$225,000) to the Tuscaloosa
23 County Board of Education; one hundred fifty thousand dollars
24 (\$150,000) to the Tuscaloosa County Public Library; one
25 hundred thousand dollars (\$100,000) to the Town of Brookwood;
26 fifty thousand dollars (\$50,000) to the Town of Vance;
27 thirteen thousand dollars (\$13,000) to the Town of Coaling;

1 thirteen thousand dollars (\$13,000) to the Town of Coker;
2 thirteen thousand dollars (\$13,000) to the Town of Lakeview;
3 and eleven thousand dollars (\$11,000) to the Tuscaloosa County
4 Judicial Library Fund.

5 "If the total amount available to the Tuscaloosa
6 County General Fund is less than five hundred seventy-five
7 thousand dollars (\$575,000), the amount that is available
8 shall be prorated among the entities named in this paragraph
9 in the same proportion as the designated allocations.

10 "In the event the Tuscaloosa County General Fund
11 receives less than two hundred twenty-five thousand dollars
12 (\$225,000), the Tuscaloosa County schools shall receive the
13 entire distribution.

14 "In the event the allocation to the Tuscaloosa
15 County General Fund is greater than five hundred seventy-five
16 thousand dollars (\$575,000), the total amount of the excess
17 available shall be prorated as follows: 80 percent of the
18 excess to the Tuscaloosa County Board of Education; 12 percent
19 of the excess to the Tuscaloosa County Public Library; and
20 eight percent of the excess to the Tuscaloosa County General
21 Fund for the purpose of supporting the volunteer fire
22 departments in Tuscaloosa County.

23 "(2) From any moneys remaining after the allocations
24 in subsection (c) (1), one hundred thousand dollars (\$100,000)
25 shall be transferred to the Community Development Foundation,
26 Inc., fifty thousand dollars (\$50,000) shall be transferred to
27 the Marion County Community Development Association, Inc.,

1 fifty thousand dollars (\$50,000) shall be transferred to the
2 West Alabama Development Association of Fayette County, fifty
3 thousand dollars (\$50,000) shall be transferred to the Jackson
4 County Economic Development Association, and one hundred
5 thousand dollars (\$100,000) shall be transferred to the West
6 Alabama Economic Development Association. If the total moneys
7 available for distribution to the Community Development
8 Foundation, Inc., the Marion County Development Association,
9 Inc., the West Alabama Development Association of Fayette
10 County, the Jackson County Economic Development Association,
11 and the West Alabama Economic Development Association are
12 insufficient to provide the total allocations for the five,
13 the amount that is available shall be allocated
14 proportionately.

15 "(3) One hundred thousand dollars (\$100,000) shall
16 be allocated to the Winston County General Fund.

17 "(4) Any moneys remaining after the distributions in
18 subdivisions (1), (2), and (3) shall be transferred to the
19 State General Fund.

20 "(e) Beginning with the fiscal year 2013-2014, and
21 for all fiscal years thereafter, any moneys remaining in the
22 Alabama State Docks Bulk Handling Facility Trust Fund after
23 any transfers to the Alabama State Docks Department and the
24 Alabama Mining Academy shall be distributed as follows:

25 "(1) a. Sixty percent shall be transferred by the
26 Department of Revenue to the general fund of the county of
27 severance based on the ratio of the \$0.135 per ton coal

1 severance tax collections from within the county to the total
2 coal severance tax collections, except those sent to the
3 Walker County Economic and Industrial Development Authority,
4 which shall not be less than one hundred thousand dollars
5 (\$100,000). Provided, however, the distribution to the
6 Jefferson County General Fund shall be five hundred thousand
7 dollars (\$500,000). This distribution to Jefferson County
8 shall not reduce the amounts available for distribution to
9 other counties pursuant to this ~~subsection (e)(1)~~ subdivision.
10 Any difference in the amount calculated for Jefferson County
11 pursuant to this subdivision and five hundred thousand dollars
12 (\$500,000) shall be provided from funds that would otherwise
13 be transferred pursuant to subdivision (4).

14 "b. For the purposes of this paragraph, the term
15 "additional severance tax distribution" means any severance
16 tax distribution that is attributed to the amount of coal
17 severed in a county that is at least 10 percent greater than
18 the average of coal severed in a county for the fiscal years
19 2016-2017, 2017-2018, and 2018-2019 2017-2018, 2018-2019, and
20 2019-2020. Notwithstanding any other provision of this
21 section, for the fiscal year 2020-2021 2021-2022 and each
22 fiscal year thereafter, any additional severance tax
23 distribution shall be distributed to the county where the coal
24 was severed, except if any coal severed in the county was
25 loaded for shipping in another county, any additional
26 severance tax distribution attributed to any coal severed in a
27 county and loaded for shipping in another county shall be

1 distributed as follows: 75 percent of that portion of any
2 additional severance tax distribution shall be distributed to
3 the county where severed, and 25 percent of that portion of
4 any additional severance tax distribution shall be distributed
5 to the county where the coal was loaded for shipping.

6 "(2) From any moneys remaining after the allocations
7 in subdivision (1), one hundred thousand dollars (\$100,000)
8 shall be transferred to the Community Development Foundation,
9 Inc., fifty thousand dollars (\$50,000) shall be transferred to
10 the Marion County Community Development Association, Inc.,
11 fifty thousand dollars (\$50,000) shall be transferred to the
12 West Alabama Development Association of Fayette County, and
13 one hundred thousand dollars (\$100,000) shall be transferred
14 to the West Alabama Economic Development Association. If the
15 total moneys available for distribution to the Community
16 Development Foundation, Inc., the Marion County Development
17 Association, Inc., the West Alabama Development Association of
18 Fayette County, and the West Alabama Economic Development
19 Association are insufficient to provide the total allocations
20 for the four, the amount that is available shall be allocated
21 proportionately.

22 "(3) One hundred thousand dollars (\$100,000) shall
23 be allocated to the Winston County General Fund.

24 "(4) The remainder after the distribution in
25 subdivisions (1), (2), and (3) shall be transferred to ~~the~~
26 ~~State General Fund~~ a fund in the State Treasury designated
27 solely for the operation of the Surface Mining Commission,

1 which fund is continuously appropriated for the operation of
2 the commission.

3 "§40-13-8.

4 "~~(a)~~ The excise and privilege tax imposed by this
5 article shall terminate on October 1, ~~2021~~ 2031, unless
6 extended by an act of the Legislature of the State of Alabama.

7 "~~(b)~~ For fiscal year beginning October 1, 2011, the
8 tax shall apply to all severance of coal from October 1, 2011,
9 through August 1, 2012, as well as the severance of coal after
10 August 1, 2012.

11 "~~(c)~~ No later than August 20, 2012, each producer
12 shall file a report with the commissioner setting forth the
13 tons of coal severed for each month from October 2011 through
14 July 2012. No later than the same date, the producer shall
15 remit the full amount of tax levied by Act 2012-386 for the
16 tons of coal severed during such months.

17 "~~(d)~~ Any taxpayer who, prior to the required date,
18 voluntarily reported the production for the months from
19 October 2011 until August 1, 2012, shall not be required to
20 make additional reports. Any voluntary payments made by such
21 producer for the months prior to the date required for making
22 the tax payment, shall be credited to the producer's tax
23 liability for the periods. No interest or credits, in excess
24 of the amounts actually paid, shall be allowed to any such
25 producer who voluntarily paid such taxes prior to the required
26 due date.

1 ~~"(e) No penalties or interest shall be assessed for~~
2 ~~the tax return or payment related to this tax for the periods~~
3 ~~from October 2011 through August 1, 2012, if the return is~~
4 ~~filed and the payment is remitted as required by August 20,~~
5 ~~2012."~~

6 Section 2. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Ways and Means
General Fund..... 02-FEB-21

Read for the second time and placed
on the calendar 1 amendment 03-FEB-21

Read for the third time and passed
as amended..... 09-FEB-21

Yeas 97, Nays 1, Abstains 0

Jeff Woodard
Clerk