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SENATE BILL NO. 1507

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 5, 2009)

(Patron Prior to Substitute—Senator Puckett)

A BILL to amend and reenact §§ 58.1-3286 and 58.1-3712 of the Code of Virginia, relating to local taxation of gases in Buchanan County.

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-3286 and 58.1-3712 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-3286. Mineral lands to be specially and separately assessed; severance tax.

The several commissioners of the revenue shall, as soon as practicable after January 1 of each year, specially and separately assess at the fair market value all mineral lands and the improvements thereon and shall enter the same on the land books of their respective counties separately from other lands charged thereon.

The commissioner, in assessing mineral lands, shall set forth upon the land book:

1. The area and the fair market value of such portion of each tract as is improved and under development;

2. The fair market value of the improvements upon each tract; and

3. The area and fair market value of such portion of each tract not under development.

Notwithstanding any other provision of law and subject to the approval of the Board of Supervisors of Buchanan County, the commissioner of the revenue of the county may reassess gas wells and related improvements on an annual basis, provided that such gas wells and related improvements shall be reassessed in the general reassessment for the locality, as required by § 58.1-3287, and provided further a settlement agreement between the County and a taxpayer may provide a methodology for determining fair market value.

In the alternative to the procedure outlined in subdivision 1 above, any county or city may impose by ordinance a severance tax on all coal and gases extracted from the land lying within its jurisdiction. The rate of such tax shall not exceed one percent of the gross receipts from such coal or gases. Any such county or city may further require any producer of such coal or gases and any common carrier to maintain records showing the quantities of coal and gases which they have produced or transported, respectively.

If the surface of the land is held by one person, and the coal, iron and other minerals, mineral waters, gas or oil under the surface are held by another person, the estate therein of each and the relative fair market value of their respective interests shall be ascertained by the commissioner. If the surface of the land and the coal, iron and other minerals, mineral waters, gas or oil under the surface are owned by the same person, the commissioner shall ascertain the fair market value of the land, exclusive of the coal, iron, other minerals, mineral waters, gas or oils. He shall also ascertain the fair market value of the coal, iron, other minerals, mineral waters, gas, and oils and shall assess each at such ascertained values, stating separately in every case the value of the surface of the land and the value of the coal, iron, other minerals, mineral waters, gas and oils under the surface.

§ 58.1-3712. Counties and cities authorized to levy severance tax on coal and gases.

A. The governing body of any county or city may levy a license tax on every person engaging in the business of severing coal or gases from the earth. Such tax shall be at a rate not to exceed one percent of the gross receipts from the sale of coal or gases severed within such county. Such gross receipts shall be the fair market value measured at the time such coal or gases are utilized or sold for utilization in such county or city or at the time they are placed in transit for shipment therefrom, provided that if the tax provided herein is levied, such county or city cannot enact the provisions of § 58.1-3286 relating to a tax on gross receipts. In calculating the fair market value, no person engaging in the production and operation of severing gases from the earth in connection with coal mining shall be allowed to take deductions, including but not limited to, depreciation, compression, marketing fees, overhead, maintenance, transportation fees, and personal property taxes.

B. *Notwithstanding any other provision of this section or law, for purposes of calculating the fair market value of gases severed in Buchanan County, except as otherwise provided in a settlement agreement regarding the calculation of fair market value, including deductions for transportation and compression costs, between the County and the taxpayer, no person engaging in the production and operation of severing gases from the earth in connection with coal mining shall be allowed to take deductions, including but not limited to, depreciation, compression, marketing fees, overhead, maintenance, transportation fees, and personal property taxes.*

C. Any county or city enacting a license tax under this section may require producers of coal or gas

60 and common carriers to maintain records and file reports showing the quantities of and receipts from
61 coal or gases which they have produced or transported.
62 **2. That this act does not constitute a change in existing law except in connection with severing**
63 **gases from the earth in connection with coal mining.**