

LD4828176

## HOUSE BILL NO. 2575

Offered January 23, 1995

*A BILL to amend and reenact §§ 58.1-433 and 58.1-2626.1 of the Code of Virginia; to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.1; and to amend and reenact the third enactment of Chapter 730 of the 1988 Acts of Assembly and the fourth enactment of Chapter 429 of the 1989 Acts of Assembly, relating to coal industry tax credits.*

Patrons—Stump, Abbitt, Baker, Barlow, Cantor, Clement, Copeland, Cox, Cranwell, Croshaw, Crouch, Davies, Deeds, Diamonstein, Dudley, Fisher, Giesen, Hamilton, Hargrove, Howell, Ingram, Jackson, Johnson, Katzen, Kidd, Kilgore, May, McClure, Moore, Moss, Nelms, Nixon, O'Brien, Parrish, Phillips, Purkey, Reid, Reynolds, Robinson, Ruff, Sherwood, Thomas, Wagner, Wardrup, Way and Woodrum; Senators: Bell, Benedetti, Holland, R.J., Lambert, Reasor, Trumbo, Wampler and Woods

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-433 and 58.1-2626.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.1 as follows:**

§ 58.1-433. Qualifying cogenerators and small power producers credit.

A. For all taxable years beginning on and after January 1, 1988, every cogenerator as defined in § 58.1-2600 shall be allowed a credit against the tax imposed by § 58.1-400 in the following amount: one dollar per ton for each ton of coal mined in Virginia, purchased by any cogenerator which sells electric power to a public service corporation in Virginia. *For taxable years beginning on and after January 1, 1998, the amount of the credit allowed by this subsection shall be one dollar and fifty cents per ton.*

B. For all taxable years beginning on and after January 1, 1989, every cogenerator as defined in § 58.1-2600 shall be allowed an additional credit against the tax imposed by § 58.1-400 in the following amount: one dollar per ton for each ton of coal mined in Virginia, purchased by any cogenerator which sells electric power to a public service corporation in Virginia. *For taxable years beginning on and after January 1, 1998, the amount of the credit allowed by this subsection shall be one dollar and fifty cents per ton.*

C. In order to receive the credit under this section the cogenerator shall include a certification from the coal producer that the coal was mined in Virginia *and that no other state coal tax credit with respect to such coal has been applied for or will be.* In no event shall the credit allowed hereunder exceed the total amount of tax liability of such cogenerator. Any tax credit not usable for the taxable year may be carried over to the extent usable for the next five succeeding taxable years or until the full credit is utilized, whichever is sooner.

§ 58.1-439.1. Coalfield Employment Enhancement Tax Credit.

A. *For tax years beginning on and after January 1, 1996, any person who has an economic interest in coal mined in the Commonwealth shall be allowed a credit against the tax imposed by § 58.1-400 and any other tax imposed by the Commonwealth in accordance with the following:*

*1. For coal mined in Virginia and sold for ultimate consumption outside the United States, a credit in the amount of two dollars per ton.*

*2. For coal mined by underground methods, the credit amount shall be based on the seam thickness as follows:*

Seam Thickness	Credit per Ton
Up to and including 28"	\$4.20
More than 28" and up to and including 30"	3.60
More than 30" and up to and including 32"	3.00
More than 32" and up to and including 34"	2.40
More than 34" and up to and including 38"	1.80
More than 38" and up to and including 42"	0.80
Over 42"	0.40

*The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer. Copies of such certification shall be maintained by the*

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59 person qualifying for the credit under this section for a period of three years after the credit is applied  
60 for and received and shall be available for inspection by the Department of Taxation. The Department  
61 of Mines, Minerals and Energy is hereby authorized to audit all information upon which the isopach  
62 mapping is based.

63 3. For coal mined by surface mining methods, a credit in the amount of forty cents per ton;

64 B. In addition to the credit allowed in subsection A, for tax years beginning on and after January 1,  
65 1996, any person who is a producer of coalbed methane shall be allowed a credit in the amount of five  
66 cents per million BTU's of coalbed methane produced in the Commonwealth against the tax imposed by  
67 § 58.1-400 and any other tax imposed by the Commonwealth on such person.

68 C. For purposes of this section, economic interest is the same as the economic ownership interest  
69 required by § 611 of the Internal Revenue Code which was in effect on December 31, 1977. A party  
70 who only receives an arm's length royalty shall not be considered as having an economic interest in  
71 coal mined in the Commonwealth.

72 D. If the credit exceeds the person's state tax liability for the tax year, the excess may be redeemable  
73 by the Tax Commissioner on behalf of the Commonwealth for ninety-five percent of the face value  
74 within ninety days after filing the return. If the Commonwealth does not redeem such excess amount, it  
75 shall be transferable by sale.

76 E. No person may utilize more than one of the credits on a given ton of coal described in subsection  
77 A. Persons who qualify for the credit may not apply such credit to their tax returns prior to January 1,  
78 1999, and only one year of credits shall be allowed annually beginning in 1999.

79 § 58.1-2626.1. The Virginia Coal Employment and Production Incentive Tax Credit.

80 A. For the tax years beginning on and after January 1, 1988, every corporation in the Commonwealth  
81 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,  
82 whether by means of electricity, gas or steam shall be allowed a credit against the tax imposed by  
83 § 58.1-2626 in the following amount: one dollar per ton for each ton of coal contracted for purchase by  
84 such corporation after July 1, 1986, provided such coal was mined in Virginia as certified by the  
85 producer of such coal, and such producer has certified that no other state coal tax credit with respect to  
86 such coal has been applied for or will be . This credit shall be prorated equally against the corporation's  
87 estimated payments made in September and December and the final payment.

88 B. For tax years beginning on and after January 1, 1989, every corporation in the Commonwealth  
89 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,  
90 whether by means of electricity, gas or steam shall be allowed additional credit against the tax imposed  
91 by § 58.1-2626 in the following amount: one dollar per ton for each ton of coal purchased by such  
92 corporation, provided such coal was mined in Virginia as certified by such seller, and such seller has  
93 certified that no other state coal tax credit with respect to such coal has been applied for or will be.  
94 The credit shall be prorated equally against the corporation's estimated payments made in September and  
95 December and the final payment.

96 C. For tax years beginning on and after January 1, 1991, every corporation in the Commonwealth  
97 doing the business of furnishing water, heat, light or power to the Commonwealth or its citizens,  
98 whether by means of electricity, gas or steam, shall be allowed additional credit against the tax imposed  
99 by § 58.1-2626 in the following amount: one dollar per ton for each ton of coal purchased by such  
100 corporation, provided such coal was mined in Virginia as certified by such seller, and such seller has  
101 certified that no other state coal tax credit with respect to such coal has been applied for or will be.  
102 The credit shall be prorated equally against the corporation's estimated payments made in September and  
103 December and the final payment.

104 2. That the third enactment of Chapter 730 of the 1988 Acts of Assembly is amended and  
105 reenacted as follows:

106 3. That the provisions of this act shall expire on December 31, ~~1996~~ 2005.

107 3. That the fourth enactment of Chapter 429 of the 1989 Acts of Assembly is amended and  
108 reenacted as follows:

109 4. That the provisions of the act shall expire for all tax years beginning on and after January 1, ~~2004~~  
110 2005.