

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

SYNOPSIS: Under existing law, a coal severance tax (1971 Coal Severance Tax) is levied in the rate of \$0.135 per ton of coal severed in this state. After various specified earmarked distributions, the balance of the proceeds is transferred to the State General Fund. This tax will terminate on October 1, 2021, unless extended by the Legislature.

This bill would extend the tax for an additional 10 years, would provide for the distribution of certain additional severance tax revenue, and would provide that the balance of the proceeds would be earmarked for the operation of the Surface Mining Commission.

A BILL
TO BE ENTITLED
AN ACT

Relating to coal severance tax; to amend Sections 40-13-6 and 40-13-8 of the Code of Alabama 1975, to further

1 provide for the distribution of certain additional severance
2 tax revenue; to provide for the earmarking of the distribution
3 of the balance of the proceeds for the operation of the
4 Surface Mining Commission; and to extend the tax.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 40-13-6 and 40-13-8, Code of
7 Alabama 1975, are amended to read as follows:

8 "§40-13-6.

9 "(a) In each fiscal year when the funds then on
10 deposit in the special fund or funds created for retirement of
11 the bonds equal the amount needed to pay all the principal and
12 interest becoming payable on the bonds within the succeeding
13 12 months and the funds then on deposit in the reserve fund or
14 funds created for the bonds equal the maximum principal and
15 interest becoming due on the bonds in any one year, the
16 severance tax proceeds remaining in the Alabama State Docks
17 Bulk Handling Facility Trust Fund⁷ shall be distributed as
18 provided herein; provided however, that if at the end of any
19 fiscal year of the state, beginning with the fiscal year
20 ending September 30, 1987, the Director of the Alabama State
21 Docks Department shall have notified the Director of Finance
22 in writing, at least five days prior to the close of the
23 fiscal year, that the revenues to be derived by the Alabama
24 State Docks Department from the operations of its coal
25 handling facilities for the then current fiscal year are
26 anticipated to be insufficient to pay the aggregate of (1) the
27 expenses (exclusive of depreciation) incurred in operating and

1 maintaining the facilities during such fiscal year and (2)
2 principal and interest that came due during such fiscal year
3 on those bonds of the Alabama State Docks Department for
4 payment of which the revenues have been pledged (which
5 notification shall specify the amount of the expected
6 deficiency), then the remaining severance tax proceeds shall
7 remain in the Alabama State Docks Bulk Handling Facility Trust
8 Fund. Following the filing of such notification, a report
9 shall be filed by the Director of the Alabama State Docks
10 Department with the Director of Finance within 30 days after
11 the close of such fiscal year, supported by such documentation
12 as may be deemed appropriate by the Director of Finance and
13 attesting to the amount of the actual deficiency, computed as
14 described above, incurred in the operation of the facilities
15 during the immediately preceding fiscal year. Upon receipt of
16 the report and such other documentation from the department as
17 the Director of Finance may specify, the Director of Finance,
18 if satisfied as to the accuracy of the amount of the actual
19 deficiency as reflected in the report and accompanying
20 documentation, shall authorize to be transferred, and to the
21 extent herein provided there is hereby in such event
22 appropriated, to the Alabama State Docks Department an amount
23 equal to the lesser of (i) the actual amount of any deficiency
24 computed as described herein or (ii) the balance contained in
25 the Alabama State Docks Bulk Handling Facility Trust Fund as
26 of the immediately preceding September 30.

1 "(b) Beginning with the 1992-93 fiscal year, the
2 first three hundred thousand dollars (\$300,000) of any moneys
3 remaining in the Alabama State Docks Bulk Handling Facility
4 Trust Fund after such transfer to the Alabama State Docks
5 Department shall be transferred directly to the Alabama Mining
6 Academy.

7 "(c) For the fiscal year 2011-2012, any moneys
8 remaining in the Alabama State Docks Bulk Handling Facility
9 Trust Fund after such transfers to the Alabama State Docks
10 Department and the Alabama Mining Academy shall be distributed
11 as follows:

12 "(1) Five hundred thousand dollars (\$500,000) shall
13 be transferred to the Tuscaloosa County General Fund; five
14 hundred thousand dollars (\$500,000) to the Jefferson County
15 General Fund; and two hundred thousand dollars (\$200,000) to
16 the Walker County Economic and Industrial Development
17 Authority. The Tuscaloosa County General Fund allocation shall
18 be distributed as follows: One hundred thousand dollars
19 (\$100,000) to the Town of Vance; one hundred thousand dollars
20 (\$100,000) to the Town of Brookwood; one hundred twenty-five
21 thousand dollars (\$125,000) to the Tuscaloosa County Public
22 Library; and one hundred seventy-five thousand dollars
23 (\$175,000) to the Tuscaloosa County Board of Education. If the
24 total amount available for distribution to the Tuscaloosa
25 County General Fund, the Jefferson County General Fund, and
26 the Walker County Economic and Industrial Development
27 Authority is insufficient to provide the total allocations for

1 the three, the amount that is available shall be prorated
2 among the three in the same proportion as the designated
3 allocations. In the event the Tuscaloosa County General Fund
4 receives less than five hundred thousand dollars (\$500,000),
5 the distributions to the Tuscaloosa County Board of Education
6 and Tuscaloosa County Public Library shall collectively have
7 priority. In the event the allocation to the Tuscaloosa County
8 General Fund is less than three hundred twenty-five thousand
9 dollars (\$325,000), the total amount available shall be
10 prorated among the Tuscaloosa County Board of Education and
11 the Tuscaloosa County Public Library in the same proportion as
12 the designated allocations.

13 "(2) From any moneys remaining after the allocations
14 in subdivision (1), one hundred thousand dollars (\$100,000)
15 shall be transferred to the Community Development Foundation,
16 Inc., fifty thousand dollars (\$50,000) shall be transferred to
17 the Marion County Community Development Association, Inc.,
18 fifty thousand dollars (\$50,000) shall be transferred to the
19 West Alabama Development Association of Fayette County, one
20 hundred thousand dollars (\$100,000) shall be transferred to
21 the Jackson County Economic Development Association, and one
22 hundred thousand dollars (\$100,000) shall be transferred to
23 the West Alabama Economic Development Association. If the
24 total moneys available for distribution to the Community
25 Development Foundation, Inc., the Marion County Development
26 Association, Inc., the West Alabama Development Association of
27 Fayette County, the Jackson County Economic Development

1 Association, and the West Alabama Economic Development
2 Association are insufficient to provide the total allocations
3 for the five, the amount that is available shall be allocated
4 proportionately.

5 "Any foundation or association receiving funds
6 pursuant to this section shall be annually audited by the
7 Examiners of Public Accounts and such audit shall be submitted
8 to the Legislature each legislative session.

9 "(3) Any county producing coal that has not
10 previously received an allocation shall receive an allocation
11 based upon tonnage produced in their county using 60 percent
12 of severance tax.

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

16 "(d) For the fiscal year 2012-2013, any moneys
17 remaining in the Alabama State Docks Bulk Handling Facility
18 Trust Fund after any transfers to the Alabama State Docks
19 Department and the Alabama Mining Academy shall be distributed
20 as follows:

21 "(1)a. The Tuscaloosa County General Fund, Jefferson
22 County General Fund, and Walker County Economic and Industrial
23 Development Authority shall receive 50 percent of the
24 designated allocations provided in subsection (c) (1), unless
25 insufficient moneys are available for the distributions; in
26 which case, a pro rata amount shall be received.

1 "b. However, if 60 percent of the remaining moneys
2 available for distribution to the Tuscaloosa County General
3 Fund, Jefferson County General Fund, and Walker County
4 Economic and Industrial Development Authority exceed 50
5 percent of the designated allocations to the three, as
6 provided in subsection (c) (1), then the three shall receive
7 the same proportion of 60 percent of the remaining moneys
8 available for distribution as provided by the designated
9 allocations.

10 " c. Notwithstanding any other provision, ~~for the~~
11 ~~fiscal year 2012-2013~~ through the fiscal years 2015-2021 year
12 ending September 30, 2031, the Tuscaloosa County General Fund
13 allocation shall be distributed as follows: Two hundred
14 twenty-five thousand dollars (\$225,000) to the Tuscaloosa
15 County Board of Education; one hundred fifty thousand dollars
16 (\$150,000) to the Tuscaloosa County Public Library; one
17 hundred thousand dollars (\$100,000) to the Town of Brookwood;
18 fifty thousand dollars (\$50,000) to the Town of Vance;
19 thirteen thousand dollars (\$13,000) to the Town of Coaling;
20 thirteen thousand dollars (\$13,000) to the Town of Coker;
21 thirteen thousand dollars (\$13,000) to the Town of Lakeview;
22 and eleven thousand dollars (\$11,000) to the Tuscaloosa County
23 Judicial Library Fund.

24 "If the total amount available to the Tuscaloosa
25 County General Fund is less than five hundred seventy-five
26 thousand dollars (\$575,000), the amount that is available

1 shall be prorated among the entities named in this paragraph
2 in the same proportion as the designated allocations.

3 "In the event the Tuscaloosa County General Fund
4 receives less than two hundred twenty-five thousand dollars
5 (\$225,000), the Tuscaloosa County schools shall receive the
6 entire distribution.

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

16 "(2) From any moneys remaining after the allocations
17 in subsection (c) (1), one hundred thousand dollars (\$100,000)
18 shall be transferred to the Community Development Foundation,
19 Inc., fifty thousand dollars (\$50,000) shall be transferred to
20 the Marion County Community Development Association, Inc.,
21 fifty thousand dollars (\$50,000) shall be transferred to the
22 West Alabama Development Association of Fayette County, fifty
23 thousand dollars (\$50,000) shall be transferred to the Jackson
24 County Economic Development Association, and one hundred
25 thousand dollars (\$100,000) shall be transferred to the West
26 Alabama Economic Development Association. If the total moneys
27 available for distribution to the Community Development

1 Foundation, Inc., the Marion County Development Association,
2 Inc., the West Alabama Development Association of Fayette
3 County, the Jackson County Economic Development Association,
4 and the West Alabama Economic Development Association are
5 insufficient to provide the total allocations for the five,
6 the amount that is available shall be allocated
7 proportionately.

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

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

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

18 "(1) a. Sixty percent shall be transferred by the
19 Department of Revenue to the general fund of the county of
20 severance based on the ratio of the \$0.135 per ton coal
21 severance tax collections from within the county to the total
22 coal severance tax collections, except those sent to the
23 Walker County Economic and Industrial Development Authority,
24 which shall not be less than one hundred thousand dollars
25 (\$100,000). Provided, however, the distribution to the
26 Jefferson County General Fund shall be five hundred thousand
27 dollars (\$500,000). This distribution to Jefferson County

1 shall not reduce the amounts available for distribution to
2 other counties pursuant to this ~~subsection (e)(1)~~ subdivision.
3 Any difference in the amount calculated for Jefferson County
4 pursuant to this subdivision and five hundred thousand dollars
5 (\$500,000) shall be provided from funds that would otherwise
6 be transferred pursuant to subdivision (4).

7 "b. For the purposes of this paragraph, the term
8 "additional severance tax distribution" means any severance
9 tax distribution that is attributed to the amount of coal
10 severed in a county that is at least 10 percent greater than
11 the average of coal severed in a county for the fiscal years
12 2016-2017, 2017-2018, and 2018-2019. Notwithstanding any other
13 provision of this section, for the fiscal year 2020-2021 and
14 each fiscal year thereafter, any additional severance tax
15 distribution shall be distributed to the county where the coal
16 was severed, except if any coal severed in the county was
17 loaded for shipping in another county, any additional
18 severance tax distribution attributed to any coal severed in a
19 county and loaded for shipping in another county shall be
20 distributed as follows: 75 percent of that portion of any
21 additional severance tax distribution shall be distributed to
22 the county where severed, and 25 percent of that portion of
23 any additional severance tax distribution shall be distributed
24 to the county where the coal was loaded for shipping.

25 "(2) From any moneys remaining after the allocations
26 in subdivision (1), one hundred thousand dollars (\$100,000)
27 shall be transferred to the Community Development Foundation,

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

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

16 "(4) The remainder after the distribution in
17 subdivisions (1), (2), and (3) shall be transferred to ~~the~~
18 ~~State General Fund~~ a fund in the State Treasury designated
19 solely for the operation of the Surface Mining Commission,
20 which fund is continuously appropriated for the operation of
21 the commission.

22 "§40-13-8.

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

26 "~~(b) For fiscal year beginning October 1, 2011, the~~
27 ~~tax shall apply to all severance of coal from October 1, 2011,~~

1 through August 1, 2012, as well as the severance of coal after
2 August 1, 2012.

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

9 ~~"(d) Any taxpayer who, prior to the required date,~~
10 ~~voluntarily reported the production for the months from~~
11 ~~October 2011 until August 1, 2012, shall not be required to~~
12 ~~make additional reports. Any voluntary payments made by such~~
13 ~~producer for the months prior to the date required for making~~
14 ~~the tax payment, shall be credited to the producer's tax~~
15 ~~liability for the periods. No interest or credits, in excess~~
16 ~~of the amounts actually paid, shall be allowed to any such~~
17 ~~producer who voluntarily paid such taxes prior to the required~~
18 ~~due date.~~

19 ~~"(e) No penalties or interest shall be assessed for~~
20 ~~the tax return or payment related to this tax for the periods~~
21 ~~from October 2011 through August 1, 2012, if the return is~~
22 ~~filed and the payment is remitted as required by August 20,~~
23 ~~2012."~~

24 Section 2. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.