



AN ACT AUTHORIZING A BOARD OF COUNTY COMMISSIONERS TO AUTHORIZE A 50 PERCENT LOCAL ABATEMENT OF THE COAL GROSS PROCEEDS TAX FROM A NEW OR EXPANDING UNDERGROUND COAL MINE; PROVIDING THAT THE ABATEMENT CAN LAST FOR 5 OR 10 YEARS; REQUIRING NOTIFICATION OF ALL AFFECTED SCHOOL DISTRICTS; PROVIDING FOR THE DISTRIBUTION OF THE REDUCED TAX COLLECTIONS; AMENDING SECTION 15-23-703, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. New or expanding underground mines -- tax abatement. (1) A county may abate taxation under this chapter for production from a new or expanding underground coal mine by 50% for 5 or 10 years by directing the department to levy the tax at a lower tax rate as provided in 15-23-703(1)(b).

(2) An abatement must be authorized by the governing body of a county. Before an abatement authorization is effective, the school boards of all affected school districts must be notified of the abatement. The authorization must be made by a resolution of the county governing body after a public hearing. The county governing body shall publish notice of the hearing in a newspaper that meets the requirements of 7-1-2121. The notice must be published twice, with at least 6 days separating publications. The first publication may be no more than 30 days prior to the hearing and the last publication must be at least 3 days prior to the hearing.

(3) An abatement authorization may be made for a 5-tax-year period, and upon expiration of that period, it may be authorized for one more 5-tax-year period. An abatement authorization must be made prior to the beginning of the property tax year in which abatement is in effect. The department must be notified of each abatement authorization prior to the beginning of the tax year.

(4) (a) Production from a new underground mine is all production from a mine that in the year prior to the tax year in which the first abatement will apply had production of less than 500,000 tons of coal and the production during the course of the abatement period is estimated to be and actually amounts to at least five times the preabatement production amount.

(b) Production from an expanding underground mine is that portion of the mine's production that exceeds the average production for the previous 3 years. To qualify for the abatement, the total of the prior average production and the new production may not decrease during the time of the abatement.

Section 2. Section 15-23-703, MCA, is amended to read:

"15-23-703. Taxation of gross proceeds -- taxable value for county classification and guaranteed tax base aid to schools. (1) (a) The department shall compute from the reported gross proceeds from coal a tax roll that must be transmitted to the county treasurer on or before September 15 each year. The department may not levy or assess any mills against the reported gross proceeds of coal but shall, subject to subsection (1)(b), levy a tax ~~of 5%~~ of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding underground mine as provided in [section 1], the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by 50%.

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

(3) Except as provided in ~~subsection~~ subsections (6) and (7), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), (7), and ~~(8)~~ (9), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would

have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under [section 1], the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

~~(6)~~(7) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If the allocation in subsection ~~(6)~~(7)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

~~(7)~~(8) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection ~~(7)~~(8)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

~~(8)~~(9) The county treasurer shall credit all taxes collected under this part from coal mines that began

production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 15, chapter 23, part 7, and the provisions of Title 15, chapter 23, part 7, apply to [section 1].

Section 4. Coordination instruction. If House Bill No. 588 and [this act] are both passed and approved and if both contain a section amending 15-23-703, then the sections amending 15-23-703 are void and 15-23-703 must be amended as follows:

"15-23-703. Taxation of gross proceeds -- taxable value for county classification and guaranteed tax base aid to schools nontax purposes. (1) (a) The department shall compute from the reported value of coal gross proceeds ~~from coal~~ a tax roll that must be transmitted to the county treasurer on or before September 15 of each year. The department may not levy or assess any mills against ~~the reported coal~~ gross proceeds ~~of coal~~ but shall, subject to subsection (1)(b), levy a tax of 5% against the value of ~~the reported gross proceeds coal~~ as provided in 15-23-701(1)(d). The county treasurer shall give full notice to each coal producer of the taxes due and shall collect the taxes.

(b) If the county grants a tax abatement for production from a new or expanding underground mine as provided in [section 1], the department shall levy a tax at a rate that would, after providing for payment to the state of the amount attributable to all applicable state mill levies as if the tax rate were 5%, reduce the tax received by county taxing jurisdictions and any school district on the new or expanded production by 50%.

(2) For county classification and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102.

~~———— (3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.~~

~~———— (4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:~~

~~———— (a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the~~

~~relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and~~

~~———— (b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as impact aid money, as provided in 20 U.S.C. 7701, et seq., in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.~~

~~———— (5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenue, to the department for redistribution as provided in 15-23-706.~~

~~———— (b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.~~

(3) (a) Except as provided in subsections (4) and (7) and subject to subsection (3)(b), coal gross proceeds taxes must be allocated to the state, county, and school districts in the same relative proportions as the taxes were distributed in fiscal year 1990.

(b) The county treasurer shall multiply the coal gross proceeds taxes collected in the county under this part by the relative proportions determined for the state, county, and school districts under subsection (3)(a). Those amounts must be distributed as follows:

(i) the state share must be distributed in the relative proportions required by levies for state purposes in the same manner as property taxes were distributed in fiscal year 1990;

(ii) except as provided in subsection (5), the county share must be distributed in the relative proportions required by levies for county purposes, other than an elementary school or high school, in the same manner as property taxes were distributed in the previous fiscal year;

(iii) except as provided in subsection (6), the school districts' share must be distributed in the relative proportions required by levies for school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(4) If there is a distribution of coal gross proceeds from a new or expanding underground mine with a tax abatement as provided under [section 1], the county treasurer shall distribute:

(a) the state's share of the coal gross proceeds determined under subsection (1)(b) in the relative

proportion required by the appropriate levies for state purposes; and

(b) the county's share and any school district's share of the coal gross proceeds determined under subsection (1)(b) as provided in this section.

~~(6)~~(5) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection ~~(4)~~(a) ~~(3)(b)(i)~~, to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in the previous fiscal year ~~1990~~.

(b) If the allocation in subsection ~~(6)~~(a) ~~(5)(a)~~ exceeds the total budget ~~for~~ of a taxing unit, the commissioners may direct the county treasurer to ~~allocate~~ reallocate the excess to any taxing unit within the county.

~~(7)~~(6) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in the previous fiscal year ~~1990~~.

(b) If the allocation under subsection ~~(7)~~(a) ~~(6)(a)~~ exceeds the total budget for a fund, the trustees may ~~allocate~~ reallocate the excess to any budgeted fund of the school district.

~~(8)~~(7) The Except as provided in subsections (8) and (9), the county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year.

(8) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds under subsection (7) in the same manner as provided in subsection (5).

(9) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under subsection (7) in the same manner as provided in subsection (6)."

Section 5. Applicability. [This act] applies to tax years beginning after December 31, 2009.

- END -

I hereby certify that the within bill,
SB 0510, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2009.

Speaker of the House

Signed this _____ day
of _____, 2009.

SENATE BILL NO. 510

INTRODUCED BY K. GEBHARDT

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