Energy Legislation

2015 West Virginia Legislature
2015 Legislature

42 New Legislators

House—(32-new) 64R-36D

Senate—(10-new) 18R-16D

First Time Republicans Have Controlled State Legislature in 83 Years
First Time Governing in State Capitol Building
# State of Coal

## West Virginia Coal Vital Statistics 2008-2014

<table>
<thead>
<tr>
<th>Categories</th>
<th>2008</th>
<th>2012</th>
<th>2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Production (Tons)</strong></td>
<td>165,750,817</td>
<td>129,107,370</td>
<td>122,630,508</td>
</tr>
<tr>
<td>Underground</td>
<td>97,378,703</td>
<td>89,210,479</td>
<td>92,578,437</td>
</tr>
<tr>
<td>Surface</td>
<td>68,372,114</td>
<td>39,896,681</td>
<td>30,052,071</td>
</tr>
<tr>
<td><strong>Number of Mines</strong></td>
<td>259</td>
<td>184</td>
<td>122</td>
</tr>
<tr>
<td>Underground</td>
<td>161</td>
<td>114</td>
<td>97</td>
</tr>
<tr>
<td>Surface</td>
<td>98</td>
<td>70</td>
<td>25</td>
</tr>
<tr>
<td><strong>Direct Mining Employment</strong></td>
<td>24,427</td>
<td>22,351</td>
<td>18,159</td>
</tr>
<tr>
<td>Underground</td>
<td>14678</td>
<td>16,868</td>
<td>14,073</td>
</tr>
<tr>
<td>Surface</td>
<td>6249</td>
<td>5,483</td>
<td>4,086</td>
</tr>
<tr>
<td>Coal Handling Facilities</td>
<td>3,500</td>
<td>2,150</td>
<td>1,940</td>
</tr>
<tr>
<td>Contractors</td>
<td>32,000</td>
<td>29,375</td>
<td>28,940</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>56,427</td>
<td>53,934</td>
<td>49,039</td>
</tr>
<tr>
<td><strong>Average Annual Coal Wage</strong></td>
<td>$68,000</td>
<td>$68,500</td>
<td>$72,000</td>
</tr>
<tr>
<td><strong>Coal Severance/WC Tax Paid</strong></td>
<td>$458.1 Million</td>
<td>$451.8 Million</td>
<td>$407.4 Million</td>
</tr>
<tr>
<td><strong>Estimated Production Value</strong></td>
<td>$11.6 Billion</td>
<td>$7.75 Billion</td>
<td>$6.87 Billion</td>
</tr>
<tr>
<td><strong>Share of State GDP</strong></td>
<td>13%</td>
<td>13%</td>
<td>13%</td>
</tr>
</tbody>
</table>

A Presentation by Chris R. Hamilton, Senior Vice President
West Virginia Coal Association
The Coal Severance Tax

- Since 1970, West Virginia has collected 8.5 billion dollars in coal severance tax.
- In 2014 our total state revenue was $4,336,489,303.00, with $451,760,614 of that revenue derived from coal severance, roughly 10%
One of the first acts of the 2015 legislature was to promote the Energy Committee from minor to major status.

Major duties of this committee are to oversee the coal, oil and natural gas industries.
In 2009 a cap and trade system was implemented in West Virginia.

- As a coal producing state we firmly believe that the use of fossil fuels should be determined by market forces.

In 2015, HB 2001 repealed our system of cap and trade (2001 = first bill of the session)

- Wide bi-partisan support
- Only 4 no votes between house and senate
Creates a new subsection (b) that establishes that DEP may not submit a state plan pursuant to Sec. 111(d) of the Clean Air Act without legislative authorization.

Sets forth the timing of a proposed state plan to the Legislature, including requiring DEP to make certain determinations of feasibility of a state plan. The Legislature may approve the state plan in either regular session or special session.

- No later than one hundred eighty days after a rule is finalized by the Environmental Protection Agency that requires the state to submit a state plan under Section 111(d) of the Clean Air Act.
- The report must make at least two feasibility determinations: (i) Whether the creation of a state plan is feasible based on the comprehensive analysis; and (ii) whether the creation of a state plan is feasible before the deadline to submit a state plan to Environmental Protection Agency under the Section 111(d) Rule, assuming no extensions of time are granted by Environmental Protection Agency.
Provides that if the EPA rule is withdrawn, then the requirements of this section are void, and no state plan is necessary.

Provides that if the Legislature refuses to approve the DEP’s proposed state plan, it is to submit a modified plan for reconsideration by the Legislature.

There are now three states who are not going to submit a plan

- More on this later
Senate Bill 357 Coal Jobs & Safety Act

Most Comprehensive Coal-Related Legislation in 30+ Years

- 22 Sponsors
- 26 Senators Voted Yes
- 73 House Members Voted Yes
- Bill Becomes Effective June 1

WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 357

(Senators Mullins, Blair, Boley, Boso, Ferns, Gaunch, D. Hall, M. Hall, Karnes, Carmichael, Kirkendoll, Leonhardt, Maynard, Nohe, Plymale, Prezioso, Stollings, Sypolt, Takubo, Trump, Walters and Williams, original sponsors)

[Passed March 3, 2015; in effect ninety days from passage.]
Safety Provisions

- Eliminated the Diesel Commission
- Distance of Track to the Underground Working Face
- Drug Testing (Collective Bargaining)
- Sideboards & Cameras
- Movement of Mining Equipment Underground
**Senate Bill 357 Coal Jobs & Safety Act**

**Environmental Regulatory Provisions**

- Emergency Rule to Implement Hardness-based Aluminum WQStd
- Rulemaking for 2016 to Revise Inactive Status
- Rulemaking for 2016 to Revise Contemporaneous Reclamation
- NPDES Permit Penalty Conformity
- Additional Language in State CWA Regarding Compliance w/ Effluent Limits as Compliance w/ CWA
The Legislature has authorized the Board of Coal Mine Health and Safety to promulgate rules and regulations governing coal mining activities, including rules and regulations governing safety for all mining operations in the State of West Virginia.

That the Legislature of West Virginia hereby urges the Board of Coal Mine Health and Safety to review and assess the provisions of 36 CSR 4 and to develop a series of comprehensive safety regulations governing the movement of mining equipment underground.

That the Board of Coal Mine Health and Safety, in consultation with the Director of the Office of Miners’ Health, Safety and Training, shall develop and enact these new safety rules and regulations on or before June 2, 2015.
West Virginia is sitting on one of the largest, most accessible and untapped reserves of natural gas in the United States. Drilling offers our state a window into a new economic future.

- Must maximize production both environmentally and economically
- Must maximize downstream opportunities
  - Cracker plant, chemical manufacturing, exporting
Lease Integration

- Modern technology allows one single pad to extract gas from up to 640 acres of Marcellus/Utica Shale
- West Virginia is the only state with substantial gas reserves to have no integration law
2015 legislature proposed law to allow that, if 80% of mineral owners in a 640 acre tract signed leases, the other 20% could be integrated into the total lease.

No post production costs assessed to 20% who were integrated into lease.

Most liberal law in the country.

Passed both houses, but failed on procedural vote in the house, final night, 50-50 vote.
Lease Integration Cont’d

- Look for this law to make a comeback either in special session or in the 2016 session
- Necessary to maximize production and protect those who want to lease
- Necessary ensure that minerals are fully utilized, and surface disturbance is minimized
- Buy in from all stake holders
Recap

- Energy is the past and future of the West Virginia Economy
- Legislative leadership is committed to using our vast resources to move our economy forward, bringing unseen prosperity to our struggling state
- Petition (SLC) and Resolution (SSEB, Greenbrier)