WEST VIRGINIA CODE: §11-13A-20a

§11-13A-20a. Dedication of tax.

(a) The amount of taxes collected under this article from providers of health care items or services, including any interest, additions to tax and penalties collected under article ten of this chapter, less the amount of allowable refunds and any interest payable with respect to such refunds, shall be deposited into the special revenue fund created in the State Treasurer's Office and known as the Medicaid State Share Fund. Said fund shall have separate accounting for those health care providers as set forth in articles four-b and four-c, chapter nine of this code.

(b) Notwithstanding the provisions of subsection (a) of this section, for the remainder of fiscal year 1993 and for each succeeding fiscal year, no expenditures from taxes collected from providers of health care items or services are authorized except in accordance with appropriations by the Legislature.

(c) The amount of taxes on the privilege of severing timber collected under section three-b of this article, including any interest, additions to tax and penalties collected under article ten of this chapter, less the amount of allowable refunds and any interest payable with respect to such refunds, shall be paid into a special revenue account in the State Treasury to be appropriated by the Legislature for purposes of the Division of Forestry.

(d) Notwithstanding any other provision of this code to the contrary, beginning January 1, 2009, there is hereby dedicated an annual amount not to exceed $4 million from annual collections of the tax imposed by section three-d of this article to be deposited into the West Virginia Infrastructure Fund, created in section nine, article fifteen-a, chapter thirty-one of this code.

(e) Beginning with the fiscal year ending June 30, 2009, and each fiscal year thereafter, the Tax Commissioner shall pay from the taxes imposed in section three-d of this article, on October 1, of each year, to the county economic development entities, as this term is defined in this subsection, or county commissions as provided in subsections (f) through (h) of this section, an amount in the aggregate not to exceed $4 million per fiscal year: Provided, That on July 1, 2012, the Tax Commissioner shall deposit the taxes imposed in section three-d of this article into a special revenue fund, which is hereby created in the State Treasurer's Office and known as the Coalbed Methane Gas Distribution Fund: Provided, however, That such deposit of taxes shall not exceed in the aggregate $4 million per fiscal year and moneys therein shall be distributed by the State Treasurer pursuant to this section. Prior to making any such payment the commissioner shall deduct the amount of refunds lawfully paid and administrative costs authorized by this code. All moneys distributed to the West Virginia Infrastructure Fund pursuant to this section prior to July 1, 2011, shall be returned to the Tax Commissioner and distributed to the county economic development entities, as this term is defined in this subsection, or county commissions as provided in this section. For purposes

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of this section, the term "county economic development entity" refers to a county economic development authority established pursuant to article twelve, chapter seven of this code or if a county does not have a county economic development authority established pursuant to article twelve, chapter seven of this code, an entity designated by resolution of the county commission of the county as the lead entity for economic development activities for the purpose of encouraging economic development in the county which entity may be, but is not limited to being, redevelopment authorities created pursuant to article eighteen, chapter sixteen of this code; county economic development corporations; regional economic development councils, corporations or partnerships.

(f) Notwithstanding any provision of this article to the contrary, prior to the deposit of the proceeds of the tax on coalbed methane with each, county economic development entity or county commission pursuant to subsection (e) of this section, the Tax Commissioner shall undertake the following calculations:

(1) Seventy-five percent of the moneys to be deposited shall be provisionally allocated for the various counties of this state in which the coalbed methane was produced; and

(2) The remaining twenty-five percent of the moneys to be deposited shall be provisionally allocated to the various counties of this state in which no coalbed methane was produced for projects in accordance with subsection (h) of this section.

(3) Moneys shall be provisionally allocated to each coalbed methane producing county in direct proportion to the amount of tax revenues derived from coalbed methane production in the county.

(4) Moneys shall be provisionally allocated to each coalbed methane nonproducing county equally.

(5) Portional adjustments.

(A) If, for any year, a coalbed methane producing county's share of money provisionally allocated to that county is computed to be an amount that is less than the amount provisionally allocated to each of the coalbed methane nonproducing counties, then for purposes of the computations set forth in this subsection, that coalbed methane producing county shall be redesignated a coalbed methane nonproducing county. The money that has been provisionally allocated to that coalbed methane producing county out of the seventy-five percent portion specified in subdivision (1) of this subsection shall be subtracted out of the seventy-five percent portion specified in that subdivision and added to the twenty-five percent portion specified in subdivision (2) of this subsection.

(B) When the adjustment specified in paragraph (A), of this subdivision has been made for each coalbed methane producing county that has been redesignated as a coalbed methane nonproducing county, then the Tax Department shall finalize the calculations of the amounts to be made available for distribution to the respective county economic development entity

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or county commission of the coalbed methane producing counties that have not been redesignated as coalbed methane nonproducing counties under paragraph (A) of this subdivision as follows: The amount remaining in the provisional seventy-five percent portion specified in subdivision (1) of this subsection, as adjusted in accordance with paragraph (A) of this subdivision, shall be allocated, in direct proportion to the amount that tax revenues derived from coalbed methane production in each such county not redesignated as a coalbed methane nonproducing county bears to the total amount of tax revenues derived from coalbed methane production in all coalbed methane producing counties that have not been redesignated as a coalbed methane nonproducing county.

(C) The Tax Commissioner shall then finalize the calculation of the total amount in the twenty-five percent portion specified in subdivision (2) of this subsection, as adjusted in accordance with paragraph (A) of this subdivision equally among the coalbed methane nonproducing counties.

(D) The Tax Commissioner, upon completing the calculation of the total amount of tax to be distributed to all coalbed methane producing counties and to all coalbed methane nonproducing counties, shall deposit an amount equal to the amount so calculated in the Coalbed Methane Gas Distribution Fund, subject to the limitations set forth in this section.

(g) In no case may the total amount distributed in any fiscal year to the aggregate of all coalbed methane producing counties and all coalbed methane nonproducing counties calculated by the Tax Commissioner exceed the total amount of tax on coalbed methane authorized to be remitted to the county economic development entities and county commissions pursuant to subsection (e) of this section.

(h) Distribution of coalbed methane severance tax to county economic development entities or county commissions is subject to the following:

(1) If the amount determined pursuant to subsections (f) and (g) of this section for a county is more than $10,000, the State Treasurer shall distribute the amount determined for that county to the county economic development entity. The State Treasurer is hereby authorized to distribute accumulated but undistributed moneys from fiscal years 2009, 2010, 2011 and 2012 to each county economic development entity.

(2) Each county economic development entity shall use such funds for economic development projects and infrastructure projects.

(3) For purposes of this section:

(A) "Economic development project" means a project in the state which is likely to foster economic growth and development in the area in which the project is developed for commercial, industrial, community improvement or preservation or other proper purposes.

(B) "Infrastructure project" means a project in the state which is likely to foster

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infrastructure improvements and covers post mining land use, water or wastewater facilities, stormwater systems, steam, gas, telephone and telecommunications, broadband development, electric lines and installations, roads, bridges, railroad spurs, drainage and flood control facilities, industrial park development, road or buildings that promote job creation and retention.

(4) Prior to expending any coalbed methane severance tax moneys, each county economic development entity must obtain the approval of its respective county commission, or the county commission or commissions representing the county or counties where the economic development or infrastructure project will be situate if the county economic development entity is regional and encompasses more than one county, in writing for the purpose of such expenditure.

(5) A county commission or county economic development entity may not use funds distributed to it pursuant to subsections (e), (f), (g) and (h) of this section for the purposes of paying wages to any employee of the county or any employee of a county economic development entity.

(6) If the amount determined pursuant to subsections (f) and (g) of this section for a county is $10,000 or less, the State Treasurer shall distribute the amount determined for that county to the county commission. The county commission may then use the funds to offset its regional jail costs, costs of any community corrections programs in which it participates, expenses of a volunteer fire department that provides service within its county or expenses of any library that provides services within its county.

(i) On or before December 1, 2013, and December 1 of each year thereafter, the county economic development entity as defined in this section or county commission receiving a distribution of funds under this section shall deliver to the Joint Committee on Government and Finance a written report setting forth the specific projects for which those funds were expended during the next preceding fiscal year, a detailed account of those expenditures and a showing that the expenditures were made for the purposes required by this section.

(j) An audit of any funds distributed under this section may be authorized at any time by the Joint Committee on Government and Finance to be conducted by the Legislative Auditor at no cost to the county economic development entity or county commission audited.

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