WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4041

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)
[By Request of the Executive]

Passed March 8, 2008
In Effect Ninety Days from Passage
AN ACT to amend and reenact §11-13A-3d and §11-13A-20a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-13V-4a; and to amend and reenact §31-15A-16 of said code, all relating to equalization of natural gas and coalbed methane taxation; terminating the severance and business privilege tax exemption for production of coalbed methane with certain limited exceptions; specifying that coalbed methane is taxed as natural gas for purposes of the Severance and Business Privilege Tax Act and the Workers' Compensation Debt Reduction Act with limited exceptions; authorizing Tax Commissioner to promulgate rules; requiring portion of tax be used for infrastructure projects; providing that seventy-five percent of dedicated funds be used in counties producing coalbed methane; providing that remaining twenty-five percent of dedicated funds be shared equally by counties not producing coalbed methane; and providing effective dates.
Be it enacted by the Legislature of West Virginia:

That §11-13A-3d and §11-13A-20a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §11-13V-4a; and that §31-15A-16 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3d. Imposition of tax on privilege of severing coalbed methane.

(a) The Legislature hereby finds and declares the following:

(1) That coalbed methane is underdeveloped and an under-utilized resource within this state which, where practicable, should be captured and not be vented or wasted;

(2) The health and safety of persons engaged in coal mining is a paramount concern to the state. The Legislature intends to preserve coal seams for future safe mining, to facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state, and to ensure the safety of miners by encouraging the advance removal of coalbed methane;

(3) The United States environmental protection agency’s coalbed methane outreach program encourages United States coal mines in the United States to remove and use methane that is otherwise wasted during mining. These projects have important economic benefits for the mines and their local economies while they also reduce emissions of methane; and
(4) The initial costs of development of coalbed methane wells can be large in comparison to conventional wells and deoxygenation and water removal increase development expenditures.

The Legislature, therefore, concludes that an incentive to coalbed methane development should be implemented to encourage capture of methane gas that would otherwise be vented to the atmosphere.

(b) Imposition of tax. — In lieu of the annual privilege tax imposed on the severance of natural gas or oil pursuant to section three-a, article thirteen-a, for the privilege of engaging or continuing within this state in the business of severing coalbed methane for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax: Provided, That effective for taxable years beginning on or after the first day of January, two thousand one, there is an exemption from the imposition of the tax provided for in this article for a maximum period of five years for all coalbed methane produced from any coalbed methane well placed in service after the first day of January, two thousand. For purposes of this section, the terms "coalbed methane" and "coalbed methane well" have the meaning ascribed to them in section two, article twenty-one, chapter twenty-two of this code. The exemption from tax provided by this section is applicable to any coalbed methane well placed in service before the first day of January, two thousand nine, subject to the provisions of subsection (f) of this section.

(c) Rate and measure of tax. — The tax imposed on subsection (b) of this section is five percent of the gross value of the coalbed methane produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.
(d) **Tax in addition to other taxes.** -- The tax imposed by this section applies to all persons severing coalbed methane in this state, and is in addition to all other taxes imposed by law.

(c) Except as specifically provided in this section, application of the provisions of this article apply to coalbed methane in the same manner and with like effect as the provisions apply to natural gas.

(f) Notwithstanding any other provision of this code to the contrary, on and after the first day of January, two thousand nine, the exemption from the tax on the privilege of severing coalbed methane created in this section will no longer be applicable except that the privilege tax shall not be collected on coalbed methane produced from any coalbed methane well for the remainder of the five-year exemption for any well that was placed in service, including the commencement of actual drilling of the well, before the first day of January, two thousand nine.

(g) Subject to the exceptions set forth in this section and article thirteen-v of this chapter, on and after the first day of January, two-thousand nine, coalbed methane and methane produced from or by a coalbed methane well is taxable as natural gas for purposes of the taxes imposed by this article and the taxes imposed by article thirteen-v of this chapter.

(h) The Tax Commissioner shall promulgate emergency and legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, as necessary to effectuate the purposes of this article.

§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 one thousand
nine hundred ninety-three 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 the first day of January, two thousand
nine, there is hereby dedicated an annual amount not to
exceed four million dollars 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 the thirtieth day
of June, two thousand nine, and each fiscal year thereafter.
the Tax Commissioner shall pay from the taxes imposed in
section three-d of this article, on the first day of October of
each year, into the West Virginia Infrastructure Fund, an
amount not to exceed four million dollars per fiscal year.
Prior to making any such payment the commissioner shall
deduct the amount of refunds lawfully paid and
administrative costs authorized by this code.

(f) The Tax Commissioner shall provide to the West
Virginia Infrastructure and Jobs Development Council a
breakdown of coalbed methane taxes paid and amount of
coalbed methane produced by county. The commissioner
may obtain any production or other necessary information not
currently reported to the commissioner from the owners or
operators of coalbed methane wells or from the Department
of Environmental Protection or both.

ARTICLE 13V. WORKERS' COMPENSATION DEBT
REDUCTION ACT.


(a) Subject to the exceptions set forth in this section, on
and after the first day of January, two thousand nine, coalbed
methane and methane produced from or by a coalbed
methane well is taxable as natural gas for purposes of the
taxes imposed by this article. All coalbed methane produced
from any coalbed methane well placed in service, including
the commencement of actual drilling of the well, before the
first day of January, two thousand nine, shall be exempt from
the taxes imposed by this article for the remainder of the five-
year original exemption period set forth in section three-d,
article thirteen-a of this chapter and applicable to the coalbed
methane produced from that well.

(b) For purposes of this section, the terms "coalbed
methane" and "coalbed methane well" have the meaning
ascribed to them in section two, article twenty-one, chapter twenty-two of this code.

CHAPTER 31. CORPORATIONS.

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.


(a) There shall be dedicated an annual amount from the collections of the tax collected pursuant to article thirteen-a, chapter eleven of this code for the construction, extension, expansion, rehabilitation, repair and improvement of water supply and sewage treatment systems and for the acquisition, preparation, construction and improvement of sites for economic development in this state as provided in this article.

(b) Notwithstanding any other provision of this code to the contrary, beginning on the first day of July, one thousand nine hundred ninety-five, the first sixteen million dollars of the tax collected pursuant to article thirteen-a, chapter eleven of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter: Provided. That beginning on the first day of July, one thousand nine hundred ninety-eight, the first twenty-four million dollars of the tax annually collected pursuant to article thirteen-a of this code shall be deposited to the credit of the West Virginia infrastructure general obligation debt service fund created pursuant to section three, article fifteen-b of this chapter.

(c) Notwithstanding any provision of subsection (b) of this section to the contrary: (1) None of the collections from the tax imposed pursuant to section six, article thirteen-a,
(d) On or before the first day of May of each year, commencing the first day of May, one thousand nine hundred ninety-five, the council, by resolution, shall certify to the treasurer and the water development authority the principal and interest coverage ratio and amount for the following fiscal year on any infrastructure general obligation bonds issued pursuant to the provisions of article fifteen-b of this chapter.

(e) Notwithstanding any provision of this article to the contrary, the tax on coalbed methane remitted by the Tax Commissioner for deposit in the West Virginia Infrastructure Fund pursuant to section twenty-a, article thirteen-a, chapter eleven of this code shall be distributed as follows: (1) Seventy-five percent of the moneys so deposited shall be distributed for infrastructure projects in the various counties of this state in which the coalbed methane was produced, and (2) the remaining twenty-five percent of the moneys so deposited shall be distributed equally to the various counties of this state in which no coalbed methane was produced for infrastructure projects. Moneys shall be distributed to each coalbed methane producing county in direct proportion to the amount of tax paid by the county using information provided by the Tax Commissioner as required in section twenty-a, article thirteen-a, chapter eleven of this code.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 28\(^{th}\) day of March, 2008.

Governor
PRESENTED TO THE GOVERNOR

MAR 20 2008

Time 2:10 pm