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OFFICE OF THE CLERK  
WEST VIRGINIA  
SECRETARY OF STATE

HB 2953

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2011



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2953**

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



Passed March 12, 2011

In Effect From Passage

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COMMITTEE SUBSTITUTE

FOR

## H. B. 2953

(BY MR. SPEAKER, MR. THOMPSON)

[BY REQUEST OF THE EXECUTIVE]

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact §11-13A-20a of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15A-16 of said code, all relating to dedication of coalbed methane severance tax proceeds; redirecting coalbed methane severance tax revenues from the Infrastructure Fund to county economic development authorities or county commissions; requiring moneys deposited in the Infrastructure Fund prior to July 1, 2011, be distributed to county economic development authorities or county commissions; removing requirement that the Tax Commissioner provide Infrastructure and Jobs Development Council a breakdown of coalbed methane severance taxes paid and amount of coalbed methane produced

by each county; providing calculation methods and specifying a minimum share of coalbed methane severance tax revenue be distributed to producing counties in an amount at least equal to the share received by nonproducing counties; providing for portional adjustments and redesignation for counties deemed nonproducing; providing that no distribution of moneys to exceed total amount of coalbed methane severance tax received in any fiscal year; setting forth the purposes for receiving and conditions of expending such funds by county economic development authorities and county commissions; requiring approval of respective county commissions and the Development Office prior to expending certain funds; prohibiting certain expenditures by counties or county economic development authorities; and authorizing and requiring the Development Office to promulgate legislative rules regarding use of certain funds, including emergency rules.

*Be it enacted by the Legislature of West Virginia:*

That §11-13A-20a of the Code of West Virginia, 1931, as amended, be amended and reenacted; 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-20a. Dedication of tax; authorization of the development office to promulgate rules.**

- 1 (a) The amount of taxes collected under this article from
- 2 providers of health care items or services, including any
- 3 interest, additions to tax and penalties collected under article
- 4 ten of this chapter, less the amount of allowable refunds and
- 5 any interest payable with respect to such refunds, shall be

6 deposited into the special revenue fund created in the State  
7 Treasurer's Office and known as the Medicaid State Share  
8 Fund. Said fund shall have separate accounting for those  
9 health care providers as set forth in articles four-b and four-c,  
10 chapter nine of this code.

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

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

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

32 (e) Beginning with the fiscal year ending June 30, 2009,  
33 and each fiscal year thereafter, the Tax Commissioner shall  
34 pay from the taxes imposed in section three-d of this article,  
35 on October 1, of each year, to the respective county economic  
36 development authorities or county commissions as provided  
37 in subsections (f) through (h) of this section, an amount in the

38 aggregate not to exceed \$4 million per fiscal year. Prior to  
39 making any such payment the commissioner shall deduct the  
40 amount of refunds lawfully paid and administrative costs  
41 authorized by this code. All moneys distributed to the West  
42 Virginia Infrastructure Fund pursuant to this section prior to  
43 July 1, 2011, shall be returned to the Tax Commissioner and  
44 distributed to the respective county economic development  
45 authorities or county commissions as provided in this section.

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

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

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

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

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

66 (5) Portional adjustments.

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

81 (B) When the adjustment specified in paragraph (A),  
82 subdivision (4) of this subsection has been made for each  
83 coalbed methane producing county that has been  
84 redesignated as a coalbed methane nonproducing county,  
85 then the Tax Department shall finalize the calculations of the  
86 amounts to be made available for distribution to the  
87 respective county development authority or county  
88 commission of the coalbed methane producing counties that  
89 have not been redesignated as coalbed methane nonproducing  
90 counties under subdivision (4) of this subsection as follows:  
91 The amount remaining in the provisional seventy-five percent  
92 portion specified in subdivision (1) of this subsection, as  
93 adjusted in accordance with paragraph (A), subdivision (4) of  
94 this subsection, shall be allocated, in direct proportion to the  
95 amount that tax revenues derived from coalbed methane  
96 production in each such county not redesignated as a coalbed  
97 methane nonproducing county bears to the total amount of  
98 tax revenues derived from coalbed methane production in all  
99 coalbed methane producing counties that have not been  
100 redesignated as a coalbed methane nonproducing county.

101 (C) The Tax Commissioner shall then finalize the  
102 calculation of the total amount in the twenty-five percent  
103 portion specified in subdivision (2) of this subsection, as  
104 adjusted in accordance with paragraph (A), subdivision (4) of  
105 this subsection equally among the coalbed methane  
106 nonproducing counties.

107 (g) In no case may the total amount distributed in any  
108 fiscal year to the aggregate of all coalbed methane producing  
109 counties and all coalbed methane nonproducing counties  
110 calculated by the Tax Commissioner exceed the total amount  
111 of tax on coalbed methane authorized to be remitted to the  
112 county economic development authority or county  
113 commission pursuant to subsection (e) of this section.

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

117 (1) If the amount determined pursuant to subsections (f)  
118 and (g) of this section for a county is more than ten thousand  
119 dollars, the Tax Commissioner shall distribute the amount  
120 determined for that county to the economic development  
121 authority of that county created pursuant to article twelve,  
122 chapter seven of this code for the purposes of encouraging  
123 economic development in the county.

124 (2) Each county economic development authority shall  
125 use such funds for the following upon a finding by the county  
126 economic development authority that the cost of such  
127 projects are reasonably anticipated to lead to further  
128 economic development of the county:

129 (i) The cost of preparation of land sites for any public or  
130 private facility; or

131 (ii) The cost of design or construction of water, sewer and  
132 stormwater infrastructure.

133 (3) Prior to expending any coalbed methane severance tax  
134 moneys, each county economic development authority must  
135 obtain the approval of its respective county commission in  
136 writing for the purpose of such expenditure.

137 (4) Prior to expending any coalbed methane severance tax  
138 moneys, each county economic development authority must  
139 obtain the approval of the development office in writing for  
140 the purpose of such expenditure. The Development Office  
141 shall approve all plans for use of the moneys if such plans are  
142 within the required uses provided in subdivision (2) of this  
143 subsection. The Director of the State Development Office  
144 shall promulgate legislative rules in accordance with article  
145 three, chapter twenty-nine-a of this code in order to set forth  
146 the required documentation to be submitted to the  
147 Development Office from the county economic development  
148 authorities to ensure that such funds are utilized as intended  
149 by the Legislature. The Director of the Development Office  
150 is authorized to promulgate emergency rules to implement  
151 the provisions of this section.

152 (5) A county or county economic development authority  
153 may not use such funds for the purposes of paying wages to  
154 any employee of the county or any employee of a county  
155 economic development authority.

156 (6) If the amount determined pursuant to subsections (f)  
157 and (g) of this section for a county is ten thousand dollars or  
158 less, the Tax Commissioner shall distribute the amount  
159 determined for that county to the county commission. The  
160 county commission may then use the funds to offset its  
161 regional jail costs, costs of any community corrections  
162 programs in which it participates, expenses of a volunteer fire

163 department that provides service within its county or  
164 expenses of any library that provides services within its  
165 county.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT ACT.

#### §31-15A-16. Dedication of severance tax proceeds.

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

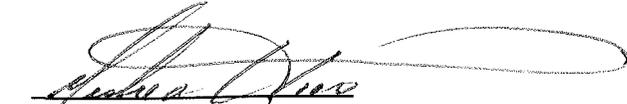
8 (b) Notwithstanding any other provision of this code to  
9 the contrary, beginning on July 1, 1995, the first \$16 million  
10 of the tax collected pursuant to article thirteen-a, chapter  
11 eleven of this code shall be deposited to the credit of the  
12 West Virginia Infrastructure General Obligation Debt Service  
13 Fund created pursuant to section three, article fifteen-b of this  
14 chapter: *Provided*, That beginning on July 1, 1998, the first  
15 \$24 million of the tax annually collected pursuant to article  
16 thirteen-a of this code shall be deposited to the credit of the  
17 West Virginia Infrastructure General Obligation Debt Service  
18 Fund created pursuant to section three, article fifteen-b of this  
19 chapter.

20 (c) Notwithstanding any provision of subsection (b) of  
21 this section to the contrary: (1) None of the collections from  
22 the tax imposed pursuant to section six, article thirteen-a,  
23 chapter eleven of this code shall be so dedicated or deposited;  
24 and (2) the portion of the tax imposed by article thirteen-a,

25 chapter eleven and dedicated for purposes of Medicaid and  
26 the Division of Forestry pursuant to section twenty-a of said  
27 article thirteen-a shall remain dedicated for the purposes set  
28 forth in that section twenty-a.

29 (d) On or before May 1 of each year, commencing May  
30 1, 1995, the council, by resolution, shall certify to the  
31 Treasurer and the Water Development Authority the principal  
32 and interest coverage ratio and amount for the following  
33 fiscal year on any infrastructure general obligation bonds  
34 issued pursuant to the provisions of article fifteen-b of this  
35 chapter.

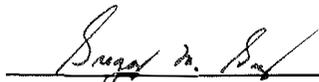
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

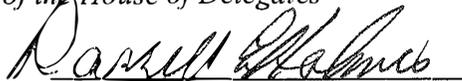
  
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Chairman, House Committee

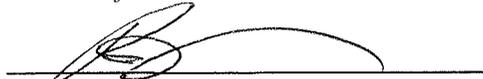
  
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Chairman, Senate Committee

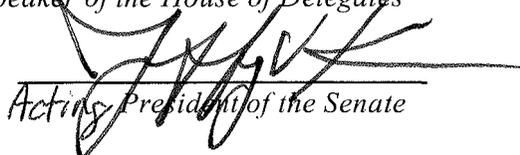
Originating in the House.

To take effect from passage.

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

  
\_\_\_\_\_  
Acting President of the Senate

The within is appended this the 5th  
day of April, 2011.

  
\_\_\_\_\_  
Governor

2011 APR -5 PM 3:11  
SECRETARY OF STATE

PRESENTED TO THE GOVERNOR

MAR 28 2011

Time 11:05 am