WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2011

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2953

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

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Passed March 12, 2011

In Effect From Passage
ENROLLED

COMMITTEE SUBSTITUTE

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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 proportional 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.

(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 respective county economic development authorities 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. 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 respective county economic development authorities or county commissions as provided in this section.

(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 authority 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) Proportional 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), subdivision (4) of this subsection 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 development authority or county commission of the coalbed methane producing counties that have not been redesignated as coalbed methane nonproducing counties under subdivision (4) of this subsection 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), subdivision (4) of this subsection, 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), subdivision (4) of this subsection equally among the coalbed methane nonproducing counties.

(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 authority or county commission pursuant to subsection (e) of this section.

(h) Distribution of coalbed methane severance tax to county economic development authorities 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 ten thousand dollars, the Tax Commissioner shall distribute the amount determined for that county to the economic development authority of that county created pursuant to article twelve, chapter seven of this code for the purposes of encouraging economic development in the county.

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

(i) The cost of preparation of land sites for any public or private facility; or
(ii) The cost of design or construction of water, sewer and stormwater infrastructure.

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

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

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

(6) If the amount determined pursuant to subsections (f) and (g) of this section for a county is ten thousand dollars or less, the Tax Commissioner 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
CHAPTER 31. CORPORATIONS.

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


(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 July 1, 1995, the first $16 million 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 July 1, 1998, the first $24 million 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, chapter eleven of this code shall be so dedicated or deposited; and (2) the portion of the tax imposed by article thirteen-a,
chapter eleven and dedicated for purposes of Medicaid and
the Division of Forestry pursuant to section twenty-a of said
article thirteen-a shall remain dedicated for the purposes set
forth in that section twenty-a.

(d) On or before May 1 of each year, commencing May
1, 1995, 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures of Chairman, House Committee and Chairman, Senate Committee]

Originating in the House.

To take effect from passage.

[Signatures of Clerk of the House of Delegates, Clerk of the Senate, Speaker of the House of Delegates, Acting President of the Senate]

The within bill approved this the _day of__ , 2011.

[Signature of Governor]
PRESENTED TO THE GOVERNOR

MAR 28 2011

Time 11:05 AM