

1 **Sub A- Joint Judiciary**
2 **Coal slurry injection prohibited, creation of special tax credit**
3 **Draft #2**

4
5 **Senate/ House Bill No.**

6 (By)
7 _____

8 [Introduced; referred to the Committee.]
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10

11 A BILL to amend of the Code of West Virginia, 1931, as amended, by
12 adding thereto a new article, designated §11-13BB-1, §11-13BB-
13 2, §11-13BB-3, §11-13BB-4, §11-13BB-5 and §11-13BB-6; and to
14 amend and reenact §22-11-8 of said code, all relating to coal
15 slurry disposal; establishing a corporate net income tax
16 credit for developing alternative technologies for disposal of
17 coal slurry; and prohibiting new permits and modifications and
18 renewals of existing permits for underground injection of coal
19 slurry.

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

21 That the Code of West Virginia, 1931, as amended, be amended
22 by adding thereto a new article, designated §11-13BB-1, §11-13BB-2,
23 §11-13BB-3, §11-13BB-4, §11-13BB-5 and §11-13BB-6; and that §22-11-8
24 of said code be amended and reenacted, all to read as follows:

25 **CHAPTER 11. TAXATION.**

26 **ARTICLE 13BB. CORPORATE NET INCOME TAX CREDIT FOR COAL CLEANING**

1 **AND PREPARATION FACILITIES.**

2 **§11-13BB-1. Short title.**

3 This article shall be known as the "Alternative Coal Slurry
4 Disposal Act."

5 **§11-13BB-2. Legislative finding and purpose.**

6 The Legislature finds that production of coal is very
7 important to the economy of this state, and that a sound economy is
8 in the public interest and promotes the general welfare of the
9 people of this state. However, there are concerns regarding the
10 potential for harmful effects to the public health and the
11 environment resulting from the [generation and] current methods of
12 disposal of coal slurry, which is a by-product of the coal cleaning
13 process. In order to encourage capital investment in alternative
14 technologies which eliminate the generation of coal slurry or
15 eliminate existing coal slurry disposal sites in this State, there
16 is hereby established a corporate net income tax credit for
17 investments in coal mining operations which implement these
18 technologies.

19 **§11-13BB-3. Definitions.**

20 (a) Any term used in this article shall have the same meaning
21 as when used in a comparable context in article twenty-four of this
22 chapter, unless a different meaning is clearly required by the
23 context of its use or by definition in this article.

24 (b) For purposes of this article, the term:

1 (1) "Coal mining operation" means any operation which is
2 granted or should obtain a permit to engage in any activity covered
3 by article three, chapter twenty-two of this code and any rule
4 promulgated under that article and includes any operation which
5 engages in surface mining operations as defined by article three,
6 chapter twenty-two of this code.

7 **§11-13BB-4. Amount and application of credit.**

8 (a) There shall be allowed to eligible taxpayers a credit
9 against the corporate net income tax imposed by article twenty-four
10 of this chapter, for investment in alternative technologies which
11 eliminate or reduce the generation of coal slurry or which
12 eliminate existing coal slurry disposal sites. The amount of this
13 credit shall be determined as hereinafter provided in this section.

14 (b) The amount invested under subsection (a) of this section
15 shall be applied to reduce up to fifty percent of the taxes imposed
16 by article twenty-four of this chapter for the tax year.

17 **§11-13BB-5. Tax commissioner to promulgate forms and legislative**
18 **rule.**

19 The state tax commissioner shall promulgate legislative rules
20 pursuant to chapter twenty-nine-a of this code regarding the
21 applicability and method of claiming of the credit.

22 **§11-13BB-6. Effective date.**

23 The credit shall be allowed for taxable years beginning on or
24 after July 1, 2011.

1 **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

2 **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

3 **§22-11-8. Prohibitions; permits required.**

4 (a) The secretary may, after public notice and opportunity for
5 public hearing, issue a permit for the discharge or disposition of
6 any pollutant or combination of pollutants into waters of this
7 state upon condition that the discharge or disposition meets or
8 will meet all applicable state and federal water quality standards
9 and effluent limitations and all other requirements of this article
10 and article three, chapter twenty-two-b of this code.

11 (b) It is unlawful for any person, unless the person holds a
12 permit therefor from the department, which is in full force and
13 effect, to:

14 (1) Allow sewage, industrial wastes or other wastes, or the
15 effluent therefrom, produced by or emanating from any point source,
16 to flow into the waters of this state;

17 (2) Make, cause or permit to be made any outlet, or
18 substantially enlarge or add to the load of any existing outlet,
19 for the discharge of sewage, industrial wastes or other wastes, or
20 the effluent therefrom, into the waters of this state;

21 (3) Acquire, construct, install, modify or operate a disposal
22 system or part thereof for the direct or indirect discharge or
23 deposit of treated or untreated sewage, industrial wastes or other
24 wastes, or the effluent therefrom, into the waters of this state,

1 or any extension to or addition to the disposal system;

2 (4) Increase in volume or concentration any sewage, industrial
3 wastes or other wastes in excess of the discharges or disposition
4 specified or permitted under any existing permit;

5 (5) Extend, modify or add to any point source, the operation
6 of which would cause an increase in the volume or concentration of
7 any sewage, industrial wastes or other wastes discharging or
8 flowing into the waters of the state;

9 (6) Construct, install, modify, open, reopen, operate or
10 abandon any mine, quarry or preparation plant, or dispose of any
11 refuse or industrial wastes or other wastes from the mine or quarry
12 or preparation plant: *Provided*, That the department's permit is
13 only required wherever the aforementioned activities cause, may
14 cause or might reasonably be expected to cause a discharge into or
15 pollution of waters of the state, except that a permit is required
16 for any preparation plant: *Provided, however*, That unless waived
17 in writing by the secretary, every application for a permit to
18 open, reopen or operate any mine, quarry or preparation plant or to
19 dispose of any refuse or industrial wastes or other wastes from the
20 mine or quarry or preparation plant shall contain a plan for
21 abandonment of the facility or operation, which plan shall comply
22 in all respects to the requirements of this article. The plan of
23 abandonment is subject to modification or amendment upon
24 application by the permit holder to the secretary and approval of

1 the modification or amendment by the secretary; or

2 (7) Operate any disposal well for the injection or reinjection
3 underground of any industrial wastes, including, but not limited
4 to, liquids or gases, or convert any well into such a disposal
5 well or plug or abandon any such disposal well.

6 (c) Where a person has a number of outlets emerging into the
7 waters of this state in close proximity to one another, the outlets
8 may be treated as a unit for the purposes of this section, and only
9 one permit issued for all the outlets.

10 (d) Notwithstanding any provision of this code to the
11 contrary, effective with the enactment of this subsection by the
12 Legislature during the regular session of 2011, the issuance of new
13 permits, permit modifications, or permit renewals for the
14 underground injection of coal slurry is prohibited.

NOTE: The purpose of this bill is to prohibit new permits or modifications and renewals of existing permits for the underground injection of coal slurry; and create a tax incentive program for development of alternative technologies for management and disposal of coal slurry.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added. As all of article 13BB is new, there are no strikethroughs or underlining in that article.