

**H. B. 2850**

(By Delegates Manchin, Fleischauer, Caputo,  
Wells and Moore)

[Introduced January 25, 2011; referred to the  
Committee on the Judiciary then Finance.]

**Interim  
Bill**

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

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

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

**CHAPTER 11. TAXATION.**

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

2 AND PREPARATION FACILITIES.

3 §11-13BB-1. Short title.

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

6 §11-13BB-2. Legislative finding and purpose.

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

20 §11-13BB-3. Definitions.

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

1       (b) For purposes of this article, "coal mining operation"  
2 means any operation which is granted or should obtain a permit to  
3 engage in any activity covered by article three, chapter twenty-two  
4 of this code and any rule promulgated under that article and  
5 includes any operation which engages in surface mining operations  
6 as defined by article three, 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 propose legislative rules for  
20 legislative approval pursuant to article three, chapter  
21 twenty-nine-a of this code regarding the applicability and method  
22 of claiming of the credit.

23 **§11-13BB-6. Effective date.**

24       The credit shall be allowed for taxable years beginning on or

1 after July 1, 2011.

2 **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

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

4 **§22-11-8. Prohibitions; permits required.**

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

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

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

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

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

1 wastes, or the effluent therefrom, into the waters of this state,  
2 or any extension to or addition to the disposal system;

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

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

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

1 application by the permit holder to the secretary and approval of  
2 the modification or amendment by the secretary; or

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

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

11 (d) Notwithstanding any provision of this code to the  
12 contrary, effective with the enactment of this subsection by the  
13 Legislature during the regular session of 2011, the issuance of new  
14 permits, permit modifications, or permit renewals for the  
15 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.

§11-13BB-1 through §11-13BB-6 are new; therefore, it has been completely underscored.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Joint Judiciary Committee.