

Form #3

OFFICE WEST VIRGINIA
SECRETARY OF STATE


Authorized Signature

No comments received.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: May 9, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Development Office, State Capitol Complex, Building 6,
Room 525, Charleston, WV 25305-0311; 304.558.2234
angel.r.moore@wv.gov

LEGISLATIVE RULE TITLE: Use of Coalbed methane Severance Tax Proceeds

1. Authorizing statute(s) citation §11-13A-20(a)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
April 6, 2012

b. What other notice, including advertising, did you give of the hearing?
NA

c. Date of Public Hearing(s) *or* Public Comment Period ended:
May 7, 2012 @ 5:00 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

May 10, 2012

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Angel R. Moore, Deputy Secretary, WV Dept. of Commerce, State Capitol
Complex, Bldg. 6, Room 525, Charleston, WV 25305-0311

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

April 6, 2012

b. Date of hearing or comment period:

April 7, 2012 - May 7, 2012 at 5:00 p.m.

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

May 10, 2012

d. Attach findings and determinations and reasons:

Attached NA

SUMMARY/STATEMENT OF CIRCUMSTANCES

Senate Bill 487, passed March 6, 2012, in effect from passage, removes the WV Development Office from the approval process prior to expending coalbed methane severance tax moneys. Senate Bill 487 replaces House Bill 2953.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Use of Coalbed Methane Severance Tax Proceeds

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: WV Development Office

Address: _____

Phone Number: 304.558.2234 Email: angel.r.moore@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure
will have on costs and revenues of state government.

NA

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of
Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: Use of Coalbed Methane Severance Tax Proceeds

Rule Title:

Use of Coalbed Methane Severance Tax Proceeds

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

NA

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Under HB2953, the WV Development Office approved applications for expending coalbed methane severance tax moneys. Under SB487, passed March 6, 2012, the WV Development Office has been removed from the approval process. Previous legislation did not provide any funds to the Development Office to offset the costs of reviewing the spending plans for the seven county development authorities that qualify for funding through this program and existing staff was utilized to review the applications. Therefore, removing the Development Office from the process will not have a fiscal impact.

Date: 4/5/2012

Signature of Agency Head or Authorized Representative

Angel R. Moore

TITLE 145
PROPOSED LEGISLATIVE RULE
WEST VIRGINIA DEVELOPMENT OFFICE

FILED

2012 MAY 11 AM 8:34

SERIES 13
~~ESTABLISHMENT OF APPLICATION AND APPROVAL PROCESS BY WEST VIRGINIA
DEVELOPMENT OFFICE FOR EXPENDITURE OF COALBED METHANE SEVERANCE
TAX MONEY BY COUNTY ECONOMIC DEVELOPMENT AUTHORITIES~~

~~§145-13-1. General.~~

~~—1.1. Scope and Purpose.— This legislative rule establishes the procedures and guidelines applicable to a county economic development authority that seeks approval from the West Virginia Development Office to expend coalbed methane severance tax money received pursuant to W. Va. Code § 11-13A-20a.~~

~~—1.2. Authority.— W. Va. Code § 11-13A-20(a).~~

~~—1.3. Filing Date.—~~

~~—1.4. Effective Date.—~~

~~§ 145-13-2. Application.~~

~~—2.1.— This legislative rule applies to economic development authorities of counties receiving more than ten thousand dollars of coalbed methane severance tax money pursuant to W. Va. Code 11-13A-20a.~~

~~§145-13-3. Definitions.~~

~~—3.1.— “Chief Inspector Division” means the Chief Inspector Division of the West Virginia State Auditor’s Office.~~

~~—3.2.— “Coalbed Methane Severance Tax Moneys” means a portion of annual collections of the coalbed methane severance tax, imposed by § 11-13a-3d of the West Virginia Code, to be distributed to County Economic Development Authorities in an amount in the aggregate not to exceed \$4 million, as determined by the West Virginia Tax Department pursuant to W. Va. Code § 11-13A-20a (f).~~

~~—3.3.— “County Economic Development Authority” means those development authorities defined in W. Va. Code § 7-12-1 which receive more than ten thousand dollars of Coalbed Methane Severance Tax Moneys in a fiscal year pursuant to W. Va. Code § 11-13A-20a.~~

~~—3.4.— “Development Office” means the West Virginia Development Office created in W. Va. Code § 5B-1-2, et seq., which is an agency that is incorporated in and administered as part of the Department of Commerce, as provided in W. Va. Code § 5B-1-2.~~

~~—3.5.— “Director” means the Executive Director of the West Virginia Development Office or his or her designee.~~

~~—3.6.— “Project” means the expenditure of Coalbed Methane Severance Tax Moneys by a County Economic Development Authority for a permissible purpose and use as set forth in West Virginia Code § 11-13A-20a.~~

~~§145-13-4. Approval from Development Office for Expenditure of Coalbed Methane Severance Tax Moneys Required.~~

~~4.1 Prior to expending any Coalbed Methane Severance Tax Moneys, a County Economic Development Authority eligible to receive such funds must obtain written approval from the Development Office. The purpose of the expenditure, shall be limited to the permissible purposes and uses set forth in W. Va. Code § 11-13A-20a(h)(2).~~

~~§145-13-5. Permissible Purposes and Uses.~~

~~5.1. Upon the prior written approval of the Development Office and of its respective county commission, a County Economic Development Authority may use Coalbed Methane Severance Tax Moneys for a Project if the County Economic Development Authority finds that the cost of such project is reasonably anticipated to lead to further economic development of its respective county and consist of one of the following:~~

~~5.1.1. The cost of preparation of land sites for any public or private facility; or~~

~~5.1.2. The cost of design or construction of water, sewer and stormwater infrastructure.~~

~~§ 145-13-6. Approval Requirements.~~

~~6.1 A County Economic Development Authority shall provide the Development Office with an application provided by the Director and the following documentation:~~

~~6.1.1. Project map.~~

~~6.1.2. Preliminary engineer report containing estimated cost of Project.~~

~~6.1.3. Resolution by the county commission stating its approval of the Project.~~

~~6.2. All documentation submitted to the Development Office for the purpose of obtaining approval for a Project will be made available to the Chief Inspector Division upon request.~~