VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 893

An Act to amend and reenact §§ 58.1-3713 and 58.1-3713.01 of the Code of Virginia, relating to distribution of local coal and gas road improvement tax revenues for certain projects.

[S 642]

Approved April 15, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3713 and 58.1-3713.01 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3713. Local coal and gas road improvement and Virginia Coalfield Economic Development Authority tax.

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing coal or gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the tax imposed under authority of this section shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities which comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water *and/or sewer* systems and lines in areas with natural water supplies which are insufficient from the standpoint of quality or quantity, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new and improved water *and/or sewer* systems and lines in areas with natural water supplies which are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. *Notwithstanding the foregoing limitations regarding revenues used for water systems and/or sewer systems, such revenues designated for water and water systems and/or sewer systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body.*

B. Any county or city imposing the tax authorized in this section shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) the resident engineer from the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

§ 58.1-3713.01. Distribution of local coal and gas road improvement tax for water and sewer projects applicable to the additional one-fourth allocation.

The governing body of any county or city imposing a local coal and gas road improvement tax which is authorized by subsection A of § 58.1-3713 to use an additional one-fourth of the revenue from such tax to fund the construction of new or enhanced water *and/or sewer* projects shall develop and adopt by resolution an annual plan for such water *and/or sewer* projects and an annual plan for the funding of such water *and/or sewer* projects in areas in its county or city where natural water supplies are insufficient from the standpoint of quality or quantity. Plans shall establish a priority for funding water *and/or sewer* projects in such city or county. Consideration for funding shall be given to (i) replacing water supplies lost due to mining activities and providing emergency water services to areas that have lost water due to mining activities; (ii) preserving water supplies that are jeopardized due to permitted mining which is occurring or is near commencement; (iii) facilitating development of water *and/or sewer* projects which will promote diversified industrial development; and (iv) increasing the capacity of publicly owned water *and/or sewer* treatment or supply facilities.

Plans shall encourage the development of regional water *and/or sewer* projects. "Regional water *and/or sewer* project" means a project involving two or more public water *and/or sewer* service providers located in the same or neighboring political subdivisions. In order to promote cost savings and economic development, funding may be provided for regional water *and/or sewer* projects as provided in this section. If a regional water *and/or sewer* project encompasses an area for which plans are developed by two or more local governing bodies, the project shall not be funded unless it is agreed to by all of the affected local governing bodies.

A county or city shall not expend local coal and gas road improvement tax revenue for water *and/or sewer* projects in a manner that is inconsistent with the priority for funding set forth in an approved plan.