| 1                | н. в. 2403   |
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| 3<br>4<br>5<br>6 | (By Delegates Manchin, Caputo, Fleischauer,<br>Iaquinta, Longstreth, Mahan, Manypenny,<br>Marshall and Perdue) |
| 7                | [Introduced January 12, 2011; referred to the  |
| 8                | Committee on the Judiciary.]   |
| 9                |  |
| 10               | A BILL to amend the Code of West Virginia, 1931, as amended, by  |
| 11               | adding thereto a new section, designated §22-6-42, relating to   |
| 12               | establishing requirements for use of water resources at  |
| 13               | Marcellus gas well operations.   |
| 14               | Be it enacted by the Legislature of West Virginia:   |
| 15               | That the Code of West Virginia, 1931, as amended, be amended   |
| 16               | by adding thereto a new section, designated §22-6-42, to read as   |
| 17               | follows:   |
| 18               | ARTICLE 6. OFFICE OF OIL & GAS; OIL AND GAS WELLS.   |
| 19               | §22-6-42. Additional requirements for Marcellus Shale gas wells  |
| 20               | using water resources for fracturing or stimulating  |
| 21               | gas production.  |
| 22               | (a) Prior to drilling, fracturing or stimulating gas wells   |
| 23               | that are completed in the Marcellus Shale formation and which use  |
| 24               | water obtained from withdrawals of water resources of the state  |
| 25               | that exceed two hundred ten thousand gallons during a month, gas   |

- 1 well operators shall submit the following information to the Office
- 2 of Oil and Gas on a form prescribed by the Office of Oil and Gas:
- 3 (1) The type of water source, such as surface, underground or
- 4 groundwater, the county of each source to be used by the operation
- 5 for water withdrawals and the latitude and longitude of each
- 6 anticipated withdrawal location;
- 7 (2) The anticipated volume of each water withdrawal;
- 8 (3) The anticipated months when water withdrawals will be
- 9 made;
- 10 (4) The planned management and disposition of wastewater from
- 11 the fracturing, stimulation and production activities;
- 12 (5) A listing of the additives as presented on material safety
- 13 data sheets that are used in water used for fracturing or
- 14 stimulating the well;
- 15 (6) For all surface water withdrawals, a water resources
- 16 protection plan that shall include the information requested in
- 17 subdivisions (1) through (5) of this subsection and includes
- 18 documentation of measures that will be taken to allow the state to
- 19 manage the quantity of its waters for present and future use and
- 20 enjoyment and for the protection of the environment. The plan
- 21 shall include the following:
- 22 (A) Identification of the current designated and existing
- 23 water uses including any public water intakes within one mile
- 24 downstream of the withdrawal location;

- 1 (B) For surface waters, a demonstration that a sufficient
- 2 instream flow will be available immediately downstream of the point
- 3 of withdrawal. A sufficient instream flow is available when a
- 4 passby flow is maintained immediately downstream of the point of
- 5 withdrawal and that is protective of the environment.
- 6 (C) Methods to be used for surface water withdrawal to
- 7 minimize the impact of entrainment and impingement of fish.
- 8 (b) For all water used for hydraulic fracturing and for
- 9 flowback water from hydraulic fracturing activities and produced
- 10 water from production activities, gas well operators shall comply
- 11 with the following recordkeeping and reporting requirements:
- 12 (1) For production activities, the following information shall
- 13 be recorded and maintained by the well operator:
- 14 (A) The quantity of flowback water from hydraulic fracturing
- 15 the well;
- 16 (B) The quantity of produced water from the well; and
- 17 (C) The method of management or disposal of the flowback and
- 18 produced well water.
- 19 (2) For transportation activities, the following information
- 20 <u>shall be recorded and maintained by the well operator:</u>
- 21 (A) The quantity of water transported;
- 22 (B) The collection and delivery or disposal locations of
- 23 water; and
- 24 (C) The name and address of the water hauler and the company

- 1 for which the hauler was hauling the water.
- 2 (3) The information maintained pursuant to this subsection by
- 3 the gas well operator shall be available for reasonable inspection
- 4 by the Office of Oil and Gas along with other required permits and
- 5 records and maintained for three years after the water withdrawal
- 6 activity.
- 7 <u>(c) This section is intended to be consistent with and does</u>
- 8 not supersede, revise, repeal or otherwise modify, articles eleven
- 9 and twenty-six of this chapter and does not revise, repeal or
- 10 otherwise modify the common law doctrine of riparian rights under
- 11 West Virginia law.

NOTE: The purpose of this bill is to establish requirements for use of water resources at Marcellus gas well operations.

This section is new; therefore, it has been completely underscored.