

Senate Bill No. 244

(By Senators Snyder, Kessler (Acting President),
Browning, Foster, Laird, Yost, Beach, Wells, Edgell, McCabe,
Stollings, Plymale, Miller, Fanning and Klempa)

**Interim
Bill**

[Introduced January 24, 2011; referred to the Committee on
Energy, Industry and Mining; and then to the Committee on the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §37-11-7, relating to
defining ownership of coalbed methane when severance of
mineral estates fails to provide for ownership.

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 section, designated §37-11-7, to read as
follows:

**ARTICLE 11. CURATIVE PROVISIONS RESPECTING DEEDS AND OTHER
WRITINGS AND THE RECORDATION THEREOF.**

**§37-11-7. Disposition of ownership of coal bed methane gas when
deeds severing coal and or gas ownership fail to
reflect intent to transfer coalbed methane gas
ownership.**

(a) *Legislative findings-* Methane gas found in coal seams has

1 long been deemed of no value and considered as only an impediment
2 to safe coal mining. Many mining accidents have occurred in the
3 State of West Virginia due to the presence of this explosive gas in
4 the confines of underground coal mines. As the development of a
5 productive use for this gas has been found, this once valueless
6 encumbrance has now acquired commercial value, creating in essence
7 a new valuable mineral estate that was until recently not been
8 contemplated as an estate of value and therefore not addressed in
9 many deeds conveying mineral interests. As this newly valuable
10 estate exists in a gaseous or liquid state imbedded in and as part
11 of coal seams, the legal question exists of whether the gas is part
12 of the coal, gas or other land estate. This lack of clarity over
13 this ownership interest has created disputes between the various
14 estate owners, causing litigation and impeding orderly development
15 of this resource. In order to facilitate the recovery of coalbed
16 methane gas, the Legislature finds it is necessary to establish an
17 equitable legal rule to apply when the deeds transferring property
18 estates do not show contemplation of or establish clear title to,
19 coalbed methane. Therefore, the Legislature hereby declares it in
20 the public interest to determine ownership as a matter of law when
21 the ownership has not been previously specifically transferred in
22 deeds of conveyance.

23 (b) For any property where coal and gas rights have been
24 severed from each other, and the instrument severing those rights
25 does not expressly convey or reserve the rights to the coalbed
26 methane, then the coal seam and gas estate owners shall each own

1 one half of the rights to the coalbed methane located in the
2 severed coal seam.

3 (c) In the case of any deposit of coalbed methane where
4 instruments transferring or leasing the coal, or gas, or both,
5 expressly provide that an owner or lessee or any other person shall
6 own or have the right to extract coalbed methane or any specific
7 share thereof, the provisions of subsection (b) do not apply.

NOTE: The purpose of this bill is to define ownership of coalbed methane when no deed has expressed ownership or otherwise designated who owns coal bed methane.

This section is new; therefore, strike-throughs and underscoring have been omitted.

This bill was recommended for introduction and passage during the 2011 Regular Session of the Legislature by the Joint Standing Committee on the Judiciary.