

1 **ENROLLED**

2 **Senate Bill No. 366**

3 (BY SENATORS GREEN, BEACH, KLEMPA, PALUMBO, CHAFIN AND PLYMALE)

4 _____
5 [Passed March 12, 2011; in effect ninety days from passage.]
6 _____

7
8
9
10 AN ACT to amend and reenact §22-17-20 of the Code of West Virginia,
11 1931, as amended, relating to the Underground Storage Tank
12 Administrative Fund; and raising from \$500,000 to \$1 million
13 the balance allowed to be in this fund at the beginning of
14 each year.

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

16 That §22-17-20 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 17. UNDERGROUND STORAGE TANK ACT.**

19 **§22-17-20. Appropriation of funds; Underground Storage Tank**
20 **Administrative Fund.**

21 (a) The secretary shall collect annual registration fees from
22 owners of underground storage tanks. The registration fee
23 collected under this section may not exceed \$65 per tank per year.
24 All such registration fees and the net proceeds of all fines,
25 penalties and forfeitures collected under this article including

1 accrued interest shall be paid into the State Treasury into a
2 special revenue fund designated the "Underground Storage Tank
3 Administrative Fund" to be used to defray the cost of administering
4 this article in accordance with rules promulgated pursuant to
5 section six of this article. The secretary shall promulgate an
6 emergency rule in accordance with article three, chapter twenty-
7 nine-a of this code, implementing the increase in registration
8 fees. This fee of up to \$65 is effective for the fiscal year
9 ending June 30, 2004.

10 (b) The total fee assessed shall be sufficient to assure a
11 balance in the fund not to exceed one million dollars at the
12 beginning of each year.

13 (c) Any amount received pursuant to subsection (a) of this
14 section which exceeds the annual balance required in subsection (b)
15 of this section shall be deposited into the leaking Underground
16 Storage Tank Response Fund established pursuant to this article to
17 be used for the purposes set forth for expenditure of moneys in the
18 fund.

19 (d) The net proceeds of all fines, penalties and forfeitures
20 collected under this article shall be appropriated as directed by
21 article XII, section 5 of the Constitution of West Virginia. For
22 the purposes of this section, the net proceeds of such fines,
23 penalties and forfeitures are the proceeds remaining after
24 deducting from the proceeds those sums appropriated by the
25 Legislature for defraying the cost of administering this article.
26 In making the appropriation for defraying the cost of administering

1 this article, the Legislature shall first take into account the
2 sums included in the special fund prior to deducting additional
3 sums as may be needed from the civil fines, civil penalties and
4 forfeitures collected pursuant to this article. At the end of each
5 fiscal year any unexpended balance of the collected civil fines,
6 civil penalties, forfeitures and registration fees shall not be
7 transferred to the General Revenue Fund but shall remain in the
8 fund.

9 (e) The secretary shall submit an annual report to the Joint
10 Committee on Government and Finance on or before January 1 each
11 year providing information as to the status of the Underground
12 Storage Tank Fund, the registration fees or forfeitures collected
13 and any fines and penalties assessed pursuant to this article, the
14 amount of net proceeds of fines, penalties and forfeitures paid
15 into the fund and information as to the progress of the underground
16 storage tank program in the protection of human health and the
17 environment.