

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4613**

4 (By Delegates Boggs, T. Campbell, Varner, Cann and D. Campbell)

5 (Originating in the Committee on Finance)

6 [February 24, 2012]

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9
10 A BILL to amend and reenact §31-15A-2 of the Code of West Virginia,
11 1931, as amended; and to further amend said code by adding
12 thereto sixteen new sections, designated §31-15A-9a, §31-15A-
13 9b, § 31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-
14 15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a,
15 §31-15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-
16 15A-24a, all relating generally to development of broadband
17 middle mile infrastructure in this state; defining terms in
18 West Virginia Infrastructure and Jobs Development Act;
19 creating separate infrastructure fund for broadband middle
20 mile infrastructure projects and providing for deposits and
21 expenditures from the fund; giving additional powers to
22 Infrastructure and Jobs Development Council and Water
23 Development Authority regarding broadband middle mile
24 infrastructure projects; creating advisory committee to advise
25 Infrastructure and Jobs Development Council on disposition of
26 applications for grants and loans; providing process for

1 review of applications by Development Office; requiring notice
2 of public hearing on applications for grants and loans,
3 providing for hearings and public comment period; creating
4 Infrastructure Fund for Broadband Middle Mile Infrastructure
5 Revenue Debt Service Fund; providing for disposition of funds
6 on termination or dissolution of authority; providing that
7 broadband middle mile projects funded by authority are public
8 improvements under specified circumstances; authorizing
9 authority to issue broadband middle mile revenue bonds;
10 creating Broadband Middle Mile Infrastructure Debt Service
11 Fund; providing for funding of debt service fund; specifying
12 requirements for and manner of issuance of bonds; providing
13 for contents of trust agreement and trustee for bonds;
14 specifying legal remedies of bondholders, noteholders and
15 trustee; making broadband middle mile infrastructure revenue
16 bonds lawful investments; providing for purchase, cancellation
17 and refunding of bonds; specifying that bonds are not debt of
18 state or any political subdivision thereof and are exempt from
19 taxation.

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

21 That §31-15A-2 of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted; and that said code be further amended by
23 adding thereto sixteen new sections, designated §31-15A-9a, §31-
24 15A-9b, § 31-15A-10a, §31-15A-11a, §31-15A-12a, §31-15A-13a, §31-
25 15A-14a, §31-15A-15a, §31-15A-17c, §31-15A-18a, §31-15A-19a, §31-
26 15A-20a, §31-15A-21a, §31-15A-22a, §31-15A-23a and §31-15A-24a, all

1 to read as follows:

2 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**
3 **COUNCIL.**

4 **§31-15A-2. Definitions.**

5 ~~For purposes of this article:~~

6 (a) General. -- When used in this article, words defined in
7 subsection (b) of this section have the meaning ascribed to them in
8 this section, except in those instances where a different meaning
9 is distinctly expressed or the context in which the word is used
10 clearly that a different meaning is intended.

11 (b) Definitions. --

12 (1) "Bond" or "infrastructure revenue bond" means a revenue
13 bond, note, or other obligation issued by the water development
14 authority pursuant to this article, including bonds to refund such
15 bonds and notes to renew such notes, and notes in anticipation of
16 and payable from the proceeds of such bonds;

17 (2) "Broadband infrastructure" means all facilities, hardware
18 and software and other intellectual property necessary to provide
19 broadband services in this state, including, but not limited to,
20 voice, video and data services;

21 (3) "Broadband infrastructure project" means any middle mile
22 project that deploys equipment, fiber optic cables, facilities, or
23 other technologies necessary to provide broadband transport
24 services: Provided, That nothing in this article may be construed
25 to provide the Infrastructure and Jobs Development Council

1 jurisdiction or oversight over broadband infrastructure projects
2 for the sole use of homeland security agencies in this state.

3 (4) "Broadband infrastructure revenue bond" means a revenue
4 bond, note, or other obligation issued by the West Virginia
5 Infrastructure and Jobs Development Council pursuant to this
6 article to fund one or more broadband middle mile infrastructure
7 projects, including bonds to refund such bonds and notes to renew
8 such notes, and notes in anticipation of and payable from the
9 proceeds of such bonds;

10 (5) "Broadband revenue" means all amounts deposited into the
11 Infrastructure Fund for Broadband Middle Mile Development; any
12 amounts received directly or indirectly from any source for the use
13 of all or any part of any broadband project completed pursuant to
14 this article and any other amounts received by the Water
15 Development Authority for the purpose of broadband middle mile
16 development, including the repayments of any loans made for
17 broadband projects.

18 ~~(b)~~ (6) "Code" means the Code of West Virginia, 1931, as
19 amended;

20 ~~(c)~~ (7) "Cost" means, as applied to any project to be
21 financed, in whole or in part, with infrastructure revenues or
22 funds otherwise provided pursuant to this article, the cost of
23 planning, acquisition, improvement and construction of the project;
24 the cost of preliminary design and analysis, surveys, borings; the
25 cost of environmental, financial, market and engineering
26 feasibility studies, assessments, applications, approvals,

1 submissions or clearances; the cost of preparation of plans and
2 specifications and other engineering services; the cost of
3 acquisition of all land, rights-of-way, property rights, easements,
4 franchise rights and any other interests required for the
5 acquisition, repair, improvement or construction of the project;
6 the cost of demolishing or removing any buildings or structures on
7 land so acquired, including the cost of acquiring any lands to
8 which buildings or structures may be moved; the cost of excavation,
9 grading, shaping or treatment of earth, demolishing or removing any
10 buildings or structures; the cost of constructing any buildings or
11 other improvements; the cost of all pumps, tanks, vehicles,
12 apparatus and other machinery, furnishings and equipment; loan or
13 origination fees and all finance charges and interest incurred
14 prior to and during the construction and for no more than six
15 months after completion of construction; the cost of all legal
16 services and expenses; the cost of all plans, specifications,
17 surveys and estimates of cost; all working capital and other
18 expenses necessary or incident to determining the feasibility or
19 practicability of acquiring, repairing, improving or constructing
20 any project; the cost of placing any project in operation; and all
21 other costs and expenses of any kind or nature incurred or to be
22 incurred by the project sponsor developing the project that are
23 reasonable and necessary for carrying out all works and
24 undertakings necessary or incident to the accomplishment of any
25 project: *Provided*, That costs shall not include any amounts
26 related to the ongoing operations of the owner or operator,

1 depreciation thereof or any other cost which the council, ~~or~~ the
2 Water Development Authority has not determined to be consistent
3 with the purposes and objectives of this article;

4 ~~(d)~~ (8) "Council" means the West Virginia infrastructure and
5 jobs development council created in section three of this article;

6 (9) "Department of Administration" means the Department of
7 Administration established under article one, chapter five-a of
8 this code, or any successor to all or any substantial part of its
9 powers and duties;

10 ~~(e)~~ (10) "Division Department of Environmental Protection"
11 means the ~~Division Department~~ of Environmental Protection
12 established under article one, chapter twenty-two of this code, or
13 any successor to all or any substantial part of its powers and
14 duties;

15 ~~(f)~~ (11) "Division of Health" means the Division of Health
16 created in article one, chapter sixteen of this code, or any
17 successor to all or any substantial part of its powers and duties;

18 ~~(g)~~ (12) "Economic development authority" means the economic
19 development authority established under article fifteen, chapter
20 thirty-one of the code, or any successor to all or any substantial
21 part of its powers and duties;

22 ~~(h)~~ (13) "Emergency project" means a project which the council
23 has determined: (1) Is essential to the immediate economic
24 development of an area of the state; and (2) will not likely be
25 developed in that area if construction of the project is not
26 commenced immediately;

1 ~~(i)~~ (14) "Governmental agency" means any county; municipality;
2 watershed improvement district; assessment district; soil
3 conservation district; sanitary district; public service district;
4 drainage district; regional governmental authority and any other
5 state governmental agency, entity, political subdivision or public
6 corporation or agency authorized to acquire, construct or operate
7 water or wastewater facilities or broadband middle mile
8 infrastructure projects;

9 ~~(j)~~ (15) "Housing Development Fund" means the West Virginia
10 Housing Development Fund established under article eighteen of this
11 chapter, or any successor to all or any substantial part of its
12 powers and duties;

13 (16) "Includes" and "including", when used in this article, do
14 not exclude other things otherwise within the definition or the
15 sentence in which the term is used;

16 ~~(k)~~ (17) "Infrastructure Fund" means the West Virginia
17 Infrastructure Fund created and established in section nine of this
18 article;

19 ~~(l)~~ (18) "Infrastructure project" means a project in the state
20 which the council determines is likely to foster and enhance
21 economic growth and development in the area of the state in which
22 the project is developed, for commercial, industrial, community
23 improvement or preservation or other proper purposes, including,
24 without limitation, tourism and recreational housing, land, air or
25 water transportation facilities and bridges, industrial or
26 commercial projects and facilities, mail order, warehouses,

1 wholesale and retail sales facilities, and other real and personal
2 properties, including facilities owned or leased by this state or
3 any other project sponsor, and includes, without limitation: (1)
4 The process of acquiring, holding, operating, planning, financing,
5 demolition, construction, improving, expanding, renovation, leasing
6 or otherwise disposing of the project or any part thereof or
7 interest therein; and (2) preparing land for construction and
8 making, installing or constructing improvements on the land,
9 including water or wastewater facilities or any part thereof,
10 steam, gas, telephone and telecommunications and electric lines and
11 installations, roads, bridges, railroad spurs, buildings, docking
12 and shipping facilities, curbs, gutters, sidewalks, and drainage
13 and flood control facilities, whether on or off the site;

14 ~~(m)~~ (19) "Infrastructure revenue" means all amounts
15 appropriated by the Legislature; all amounts deposited into the
16 infrastructure fund; any amounts received, directly or indirectly,
17 from any source for the use of all or any part of any project
18 completed pursuant to this article; and any other amounts received
19 by the State Treasurer, council, or the Water Development Authority
20 for the purposes of this article: Provided, That funds for water
21 and sewer infrastructure projects and funds for broadband middle
22 mile infrastructure projects shall be kept separate;

23 (20) "Middle mile" when used in the context of broadband means
24 any wired or wireless facilities, or portions thereof, which
25 facilitate transport service for service providers or carriers, and
26 provides connectivity between communities, community access points,

1 network access points and carrier access points, but does not
2 include any last mile facilities (or portions thereof) that provide
3 connectivity to end-users;

4 (21) "Middle mile fiber threshold" means a fiber optic cable
5 containing no less than seventy-two individual strands of fiber
6 with minimum performance characteristics consistent with nonzero
7 dispersion shifted single mode optical fiber cable as defined by
8 the International Telecommunication Union standard ITU-T G.655;

9 ~~(n)~~ (22) "Need of the project sponsors" means there is a
10 public need for a project. The council shall for water and sewer
11 projects construe a population increase evidenced by the last two
12 decennial censuses in a county in which a project is proposed, as
13 a factor supporting the conclusion that a need exists for projects
14 in that county;

15 (23) "Network access point" when used in the context of
16 broadband means a direct connection to carriers that provide core
17 interstate TCPIP backbone networks that comprise or make up primary
18 portions of the national Internet backbone system and which provide
19 direct connectivity on a national scale throughout the United
20 States in addition to direct or indirect connectivity to
21 international networks throughout the world;

22 (24) "Open access" when used in the context of broadband means
23 the equitable and nondiscriminatory use of the new lines by all
24 broadband service providers including the grant of indefeasible
25 rights to use particular strands if such rights can be granted on
26 an equitable and non-discriminatory manner, subject to such

1 appropriate limitations and restrictions as the council may
2 determine.

3 ~~(o)~~ (25) "Project" means any wastewater facility, water
4 facility project or any combination thereof, constructed or
5 operated or to be constructed or operated by a project sponsor;

6 ~~(p)~~ (26) "Project sponsor" means any governmental agency or
7 person, or any combination thereof, including, but not limited to,
8 any public utility which intends to plan, acquire, construct,
9 improve or otherwise develop a project;

10 ~~(q)~~ (27) "Public Service Commission" means the Public Service
11 Commission of West Virginia created and established under section
12 three, article one, chapter twenty-four of this code, or any
13 successor to all or any substantial part of its powers and duties;

14 ~~(r)~~ (28) "Person" means any individual, corporation,
15 partnership, association, limited liability company or any other
16 form of business organization;

17 ~~(s)~~ (29) "Public utility" means any person or persons, or
18 association of persons, however associated, whether incorporated or
19 not, including, without limitation, any governmental agency,
20 operating a wastewater facility or water facility as a public
21 service, which is regulated by the Public Service Commission as a
22 public utility under chapter twenty-four of this code or which is
23 required to file its tariff with the Public Service Commission;

24 (30) "Service provider" when used in the context of broadband
25 means any service provider that provides broadband service and is
26 certified to provide services in accordance with state and federal

1 regulations;

2 ~~(t)~~ (31) "State Development Office" means the West Virginia
3 Development Office established under article two, chapter five-b of
4 this code, or any successor to all or any substantial part of its
5 powers and duties;

6 ~~(u)~~ (32) "State infrastructure agency" means the division of
7 health, ~~Division~~ Department of Environmental Protection, Housing
8 Development Fund, Public Service Commission, State Development
9 Office, Water Development Authority, Economic Development
10 Authority, and any other state agency, division, body, authority,
11 commission, instrumentality or entity which now or in the future
12 receives applications for the funding of, and provides funding or
13 technical assistance to, the planning, acquisition, construction or
14 improvement of a project;

15 (33) "Transport service" when used in the context of broadband
16 means any service that provides a service provider or carrier with
17 the ability to transport high-capacity voice, data, graphics or
18 video between communities, community access points, network access
19 points and carrier access points. Transport services do not
20 include any last mile broadband services or other services provided
21 directly to end-users;

22 ~~(v)~~ (34) "Wastewater facility" means all facilities, land and
23 equipment used for or in connection with treating, neutralizing,
24 disposing of, stabilizing, cooling, segregating or holding
25 wastewater, including, without limitation, facilities for the
26 treatment and disposal of sewage, industrial wastes or other

1 wastes, wastewater, and the residue thereof; facilities for the
2 temporary or permanent impoundment of wastewater, both surface and
3 underground; and sanitary sewers or other collection systems,
4 whether on the surface or underground, designed to transport
5 wastewater together with the equipment and furnishings therefor or
6 thereof and their appurtenances and systems, whether on the surface
7 or underground including force mains and pumping facilities
8 therefor;

9 ~~(w)~~ (35) "Water development authority" means the West Virginia
10 water development authority continued pursuant to the provisions of
11 article one, chapter twenty-two-c of this code, or any successor to
12 all or any substantial part of its powers and duties; ~~and~~

13 ~~(x)~~ (36) "Water facility" means all facilities, land and
14 equipment used for or in connection with the collection and/or
15 storage of water, both surface and underground, transportation of
16 water, storage of water, treatment of water and distribution of
17 water all for the purpose of providing potable, sanitary water
18 suitable for human consumption and use; and

19 (37) "West Virginia Network for Educational Telecomputing"
20 means the network managed by the vice chancellor for administration
21 of the Higher Education Policy Commission as provided in section
22 two, article four, chapter eighteen-b of this code.

23 §31-15A-9a. Infrastructure Fund for broadband middle mile
24 infrastructure projects; deposits in fund;
25 disbursements to provide loans, loan guarantees,

1 grants and other assistance; loans, loan
2 guarantees, grants and other assistance shall be
3 subject to assistance agreements; use of funds
4 for projects.

5 (a) The Water Development Authority shall create and establish
6 a special revolving fund of moneys made available by appropriation,
7 grant, contribution or loan to be known as the "West Virginia
8 Infrastructure Fund for Broadband Middle Mile Development". This
9 fund shall be governed, administered and accounted for by the Water
10 Development Authority as a special purpose account separate and
11 distinct from any other moneys, funds or funds owned and managed by
12 the authority for broadband middle mile development. The
13 Infrastructure Fund for Broadband Middle Mile Development shall
14 consist of subaccounts, as deemed necessary by the authority, for
15 the deposit of:

16 (1) Infrastructure revenues for broadband middle mile
17 deployment;

18 (2) Any appropriations, grants, gifts, contributions, loan
19 proceeds or other revenues received by the Infrastructure Fund for
20 Broadband Middle Mile Development from any source, public or
21 private;

22 (3) Amounts received as payments on any loans made by the
23 Water Development Authority to pay for the cost of a broadband
24 middle mile infrastructure project;

25 (4) Insurance proceeds payable to Infrastructure and Jobs

1 Development Council or the Infrastructure Fund For Broadband Middle
2 Mile Development in connection with any broadband middle mile
3 infrastructure project;

4 (5) All income earned on moneys held in the Infrastructure
5 Fund for Broadband Middle Mile Development; and

6 (6) All proceeds derived from the sale of bonds issued
7 pursuant to this article for broadband middle mile infrastructure
8 development.

9 (b) Any money collected pursuant to this section shall be paid
10 into the West Virginia Infrastructure Fund for Broadband Middle
11 Mile Development by the state agent or entity charged with the
12 collection of the same, credited to that fund, and used only for
13 purposes set forth in this article for broadband middle mile
14 development.

15 (c) Amounts in the Infrastructure Fund for Broadband Middle
16 Mile Development shall be segregated and administered by the Water
17 Development Authority separate and apart from its other assets and
18 programs. Amounts in the Infrastructure Fund for Broadband Middle
19 Mile Development may not be transferred to any other fund or
20 account or used, other than indirectly, for the purposes of any
21 other program of the Water Development Authority, except that the
22 council may use funds in the Infrastructure Fund for Broadband
23 Middle Mile Development to reimburse itself for any administrative
24 costs incurred by it and approved by the Infrastructure and Jobs
25 Development Council in connection with any loan, loan guarantee,
26 grant or other funding assistance made by the Water Development

1 Authority pursuant to this article.

2 (d) Notwithstanding any provision of this code to the
3 contrary, amounts in the Infrastructure Fund for Broadband Middle
4 Mile Development shall be deposited by the Water Development
5 Authority in one or more banking institutions: *Provided*, That any
6 moneys so deposited shall be deposited in a banking institution
7 located in this state. The banking institution shall be selected
8 by the Water Development Authority by competitive bid. Pending the
9 disbursement of any money from the Infrastructure Fund for
10 Broadband Middle Mile Development as authorized under this section,
11 the Water Development Authority shall invest and reinvest the
12 moneys subject to the limitations set forth in section twelve,
13 article six, chapter twelve of this code.

14 (e) To further accomplish the purposes and intent of this
15 article, the Water Development Authority may pledge infrastructure
16 revenues and from time-to-time establish one or more restricted
17 accounts within the Infrastructure Fund For Broadband Middle Mile
18 Development for the purpose of providing funds to guarantee loans
19 for broadband middle mile infrastructure projects: *Provided*, That
20 for any fiscal year the Water Development Authority may not deposit
21 into the restricted accounts more than twenty percent of the
22 aggregate amount of revenues for broadband middle mile development
23 deposited into the Infrastructure Fund for Broadband Middle Mile
24 Development during the fiscal year. No loan guarantee shall be made
25 pursuant to this article unless recourse under the loan guarantee
26 is limited solely to amounts in the restricted account or accounts.

1 No person shall have any recourse to any restricted accounts
2 established pursuant to this subsection other than those persons to
3 whom the loan guarantee or guarantees have been made.

4 (f) Each loan, loan guarantee, grant or other assistance made
5 or provided by the Water Development Authority at the direction of
6 the Infrastructure and Jobs Development Council shall be evidenced
7 by a loan, loan guarantee, grant or assistance agreement between
8 the Water Development Authority and the project sponsor to which
9 the loan, loan guarantee, grant or assistance shall be made or
10 provided, which agreement shall include, without limitation and to
11 the extent applicable, the following provisions:

12 (1) The estimated cost of the broadband middle mile
13 infrastructure project, the amount of the loan, loan guarantee or
14 grant or the nature of the assistance, and in the case of a loan or
15 loan guarantee, the terms of repayment and the security therefor,
16 if any;

17 (2) The specific purposes for which the loan or grant proceed
18 shall be expended or the benefits to accrue from the loan guarantee
19 or other assistance, and the conditions and procedure for
20 disbursing loan or grant proceeds;

21 (3) The duties and obligations imposed regarding the
22 acquisition, construction, improvement or operation of the
23 broadband middle mile infrastructure project; and

24 (4) The agreement of the governmental agency to comply with
25 all applicable federal and state laws, and all rules and
26 regulations issued or imposed by the Infrastructure and Jobs

1 Development Council or other state, federal or local bodies
2 regarding the acquisition, construction, improvement or operation
3 of the broadband middle mile infrastructure project and granting
4 the Water Development Authority the right to appoint a receiver for
5 the broadband middle mile infrastructure project if the project
6 sponsor should default on any terms of the agreement.

7 (g) Any resolution of the Infrastructure and Jobs Development
8 Council approving loan, loan guarantee, grant or other assistance
9 shall include a finding and determination that the requirements of
10 this section have been met.

11 (h) The Water Development Authority shall cause an annual
12 audit to be made by an independent certified public accountant of
13 its books, accounts and records, with respect to the receipts,
14 disbursements, contracts, leases, assignments, loans, grants and
15 all other matters relating to the financial operation of the
16 Infrastructure Fund for Broadband middle Mile Development,
17 including the operating of any sub-account within that
18 infrastructure fund. The person performing such audit shall furnish
19 copies of the audit report to the Secretary of the Department of
20 Administration, where they shall be placed on file and made
21 available for inspection by the general public. The person
22 performing such audit shall also furnish copies of the audit report
23 to the Legislature's Joint Committee on Government and Finance.

24 **§31-15A-9b. Advisory committee on broadband middle mile matters.**

25 (a) There is hereby created a five member advisory committee
26 to make recommendations to the Infrastructure and Jobs Development

1 Council on whether to approve or disapprove an application for a
2 grant or loan for a broadband middle mile infrastructure project.

3 (b) This committee shall consist of:

4 (1) The Secretary of the Department of Administration, or his
5 or her designee;

6 (2) The Secretary of the Department of Commerce, or his or her
7 designee;

8 (3) The Director of the West Virginia Network for Educational
9 Telecomputing, or his or her designee;

10 (4) The member of the Broadband Deployment Council who
11 represents rural communities; and

12 (5) The chairman of the Infrastructure and Jobs Development
13 Council, or his or her designee, who shall also serve as chairman
14 of the committee.

15 (c) Applications for a grant or loan for a broadband middle
16 mile infrastructure project pursuant to section nine-a of this
17 article shall be submitted to the Director of the Development
18 Office, Department of Commerce, for review and to determine whether
19 any additional information is needed from the applicant. If the
20 application is complete, the Director of the Development Office
21 shall forward the application to the chairman of the Infrastructure
22 and Jobs Development Council along with the recommendation of that
23 office regarding disposition of the application.

24 (d) After receipt of the application from the Development
25 Office, the advisory committee shall publish in the state register
26 notice to the public that the application has been filed by a

1 project sponsor. This notice shall identify the project sponsor,
2 provide a meaningful description and the specific location of the
3 project, the amount of the loan or grant requested, where the
4 application may be viewed in person and on the Internet by the
5 public, and shall also include the date, time and place where the
6 committee will hold a public hearing, and any other information the
7 committee believes necessary or desirable to advise the public of
8 the application. The advisory committee shall also respond to
9 requests for additional information from the public concerning the
10 application or the project sponsor in a timely manner within the
11 public comment period.

12 (e) This notice shall be published in the state register at
13 least sixty days prior to the date of the public hearing. The
14 purpose of the public hearing is to receive comments on the
15 application and on whether the application should be approved or
16 denied. The public may submit written comments to the committee
17 either prior to the hearing, during the hearing, or within thirty
18 days after the day of the hearing.

19 (f) Anytime after the thirty day public comment period
20 expires, the advisor committee may submit its recommendation to the
21 Infrastructure and Jobs Development who shall make the final
22 decision on whether to approve or reject an application.

23 (g) The Infrastructure and Jobs Development council shall
24 promulgate legislative rules in accordance with article three,
25 chapter twenty-nine-a of this code, it deems necessary to implement
26 the requirements of this section

1 §31-15A-10a. Recommendations for expenditures of funds by loan,
2 grant or for engineering assistance.

3 (a) To further accomplish the purpose and intent of this
4 article, the Water Development Authority may use the moneys in the
5 Infrastructure Fund for Broadband Middle Mile Development created
6 pursuant to section nine-a of this article, at the direction of the
7 Infrastructure and Jobs Development Council, to make loans, with or
8 without interest, loan guarantees or grants and to provide other
9 assistance, financial, technical or otherwise, to finance all or
10 part of the costs of broadband middle mile infrastructure projects
11 to be undertaken by a project sponsor: *Provided*, That any moneys
12 disbursed from the Infrastructure Fund for Broadband Middle Mile
13 Development in the form of grants shall not exceed twenty percent
14 of the total funds available for the funding of projects. No loan,
15 loan guarantee, grant or other assistance shall be made or provided
16 except upon a determination by the Infrastructure and Jobs
17 Development Council that the loan, loan guarantee, grant or other
18 assistance and the manner in which it will be provided are
19 necessary or appropriate to accomplish the purposes and intent of
20 this article, based upon an application submitted as provided in
21 section ten-b of this article.

22 (b) Applications for loans, loan guarantees, grants or other
23 assistance may be submitted by a project sponsor for one or more
24 broadband middle mile infrastructure projects on preliminary
25 application forms prepared by the Infrastructure and Jobs
26 Development Council pursuant to section four of this article. Any

1 recommendation of that council approving a loan, loan guarantee,
2 grant or other assistance shall include a finding and determination
3 by that council that the requirements of this section have been
4 met. The Infrastructure and Jobs Development Council shall base
5 any decisions to loan money for projects to project sponsors
6 pursuant to this article based on criteria established by the
7 council.

8 (c) The Infrastructure and Jobs Development Council shall, in
9 its sole discretion, decide whether to accept or reject an
10 application for a grant or loan to a project sponsor if it finds
11 that the broadband middle mile infrastructure project is essential
12 for economic development, the realization of educational
13 opportunities, modernization of government, or facilitation of the
14 ability of businesses and residents to use the Internet employing
15 state-of-the art technologies. No project sponsor shall receive
16 infrastructure grant money in an amount in excess of fifty percent
17 of the total cost of the project. Therefore, the Infrastructure and
18 Jobs Development Council may consider the economic or financial
19 conditions of the area to be served.

20 (d) As a condition for receipt of a grant or loan under this
21 section:

22 (1) The network provided or enhanced by the broadband middle
23 mile infrastructure project shall be open access, subject to rules
24 of the council;

25 (2) The council shall require the project sponsor to reserve
26 at least twelve strands of fiber for use by the state, its

1 instrumentalities and political subdivisions; and

2 (3) The council may require, in addition to any other
3 conditions, that the applicant pursue other state or federal grant
4 or loan programs.

5 (e) The Infrastructure and Jobs Development Council shall
6 develop criteria to be considered in making grants or loans to
7 project sponsors which shall require consideration of the economic
8 or financial conditions of the area to be served and the
9 availability of other funding sources. The Infrastructure and Jobs
10 Development Council shall adopt procedural rules regarding the
11 manner in which grants and loans will be awarded in conformity with
12 this section. The procedural rules shall be adopted pursuant to
13 article three, chapter twenty-nine-a of this code.

14 (f) Notwithstanding any other provision of this article to the
15 contrary, engineering studies and requirements imposed by the
16 Infrastructure and Jobs Development Council for preliminary
17 applications shall not exceed those engineering studies and
18 requirements which are necessary for the council to determine the
19 economic feasibility of the project. If the Infrastructure and Jobs
20 Development Council determines that the engineering studies and
21 requirements for the preapplication would impose an undue hardship
22 on any project sponsor, the council may provide funding assistance
23 to project sponsors to defray the expenses of the preapplication
24 process from moneys available in the Broadband Middle Mile
25 Infrastructure Fund for making loans: *Provided, That the*
26 Infrastructure and Jobs Development Council may only provide

1 funding assistance in an amount equal to \$5,000 or fifty percent of
2 the total preapplication cost of the project, whichever amount is
3 greater. If the project is ultimately approved for a loan by the
4 Infrastructure and Jobs Development Council, the amount of funding
5 assistance provided to the project sponsor for the preapplication
6 process shall be included in the total amount of the loan to be
7 repaid by the project sponsor. If the project is not ultimately
8 approved by the Infrastructure and Jobs Development Council, then
9 the amount of funding assistance provided to the project sponsor
10 will be considered a grant by the Infrastructure and Jobs
11 Development Council and the total amount of the assistance shall be
12 forgiven. In no event may the amount of funding assistance provided
13 to all project sponsors exceed, in the aggregate, \$100,000
14 annually.

15 (g) The Infrastructure and Jobs Development Council shall
16 report to the Governor, the Speaker of the House of Delegates and
17 the President of the Senate during each regular and interim session
18 of the Legislature, on its activities and decisions relating to
19 distribution or planned distribution of grants and loans under the
20 criteria to be developed pursuant to this article. To the extent
21 known, the economic activity and jobs created as a result of the
22 council funding a broadband middle mile infrastructure project
23 shall be include in the report required by this subsection.

24 **\$31-15A-11a. Reservation of funds for broadband middle mile**
25 **infrastructure projects.**

26 (a) Funds deposited in the West Virginia Infrastructure Fund

1 for Broadband Middle Mile Development shall be dedicated for the
2 purpose of providing funding for the cost of broadband middle mile
3 infrastructure projects as defined in section two of this article.

4 (b) No bonds or grants may be issued under this article for
5 broadband infrastructure projects until such time as the
6 Legislature has appropriated sufficient funds to meet debt service
7 on the bonds, unless the Infrastructure and Jobs Development
8 Council is able to identify a repayment source for the bonds or a
9 source to provide grant funding.

10 **§31-15A-12a. Additional powers of Infrastructure and Jobs**
11 **Development Council - Broadband middle mile**
12 **infrastructure projects.**

13 To accomplish the purpose and intent of this article, the
14 Water Development Authority, upon approval of the Infrastructure
15 and Jobs Development Council, is hereby empowered, in addition to
16 all other powers granted to it under this code to:

17 (1) Enter into agreements or other transactions with any
18 federal or state agency in connection with any broadband middle
19 mile infrastructure project;

20 (2) Receive or administer on behalf of any federal or state
21 agency grants, subsidies or other payments to be applied to the
22 costs of any broadband middle mile infrastructure project financed,
23 in whole or in part, or otherwise assisted by the Infrastructure
24 and Jobs Development Council, including, but not limited to,
25 payments to be applied to operating costs and debt service or

1 obligations of any project sponsor;

2 (3) Receive and accept aid or contributions from any source of
3 money, property, labor or other things of value, to be held, used
4 and applied only for the purposes for which such grants and
5 contributions are made;

6 (4) Establish and amend the criteria and qualifications for
7 making loans, loan guarantees or grants, or providing any other
8 assistance, for any broadband middle mile infrastructure project,
9 and the terms of any loans, loan guarantee, grant or assistance
10 agreement for any broadband middle mile infrastructure project; and

11 (5) Do all things which are necessary to further the purposes
12 and intent of this article.

13 **§31-15A-13a. Prohibition on funds inuring to the benefit of or**
14 **being distributable to water development board; transactions**
15 **between the water development board and officers having**
16 **certain interests in such transactions.**

17 No part of the West Virginia Infrastructure Fund for Broadband
18 Middle Mile Development or the West Virginia Broadband Middle Mile
19 Infrastructure Revenue Debt Service Fund shall inure to the benefit
20 of or be distributable to the water development board directors or
21 officers of the Water Development Authority except that the Water
22 Development Authority is authorized and empowered to pay reasonable
23 compensation, other than to members of the Water Development Board,
24 including the chairman, vice chairman, secretary-treasurer for
25 services rendered and to make loans and exercise its other powers

1 as previously specified in furtherance of its corporate purpose:
2 Provided, That no loans shall be made, and no property shall be
3 purchased or leased from, or sold, leased or otherwise disposed of,
4 to any water development board member or officer of the Water
5 Development Authority.

6 **§31-15A-14a. Disposition of Infrastructure Fund for Broadband**
7 **Development upon termination or dissolution of**
8 **council.**

9 Upon the termination or dissolution of the Water Development
10 Authority, all rights and properties of the authority with respect
11 to the Infrastructure Fund for Broadband Middle Mile Development
12 shall pass to and be vested in the state, subject to the rights of
13 lienholders and other creditors.

14 **§31-15A-15a. Broadband middle mile projects not to be considered**
15 **public improvements; competitive bid requirements.**

16 (a) No broadband middle mile infrastructure project acquired,
17 constructed or maintained or financed, in whole or in part, by the
18 Water Development Authority shall be considered to be a "public
19 improvement" within the meaning of the provisions of article five-
20 a, chapter twenty-one of this code for purposes of the financing of
21 the project.

22 (b) The state and its subdivisions shall, except as provided
23 in subsection (c) of this section, solicit competitive bids and
24 require the payment of prevailing wage rates as provided in article
25 five-a, chapter twenty-one of this code for the construction of

1 every broadband middle mile infrastructure project funded pursuant
2 to this article exceeding \$25,000 in total cost.

3 Following the solicitation of the bids, the construction
4 contract shall be awarded to the lowest qualified responsible
5 bidder, who shall furnish a sufficient performance and payment
6 bond: *Provided*, That the state and its subdivisions may reject all
7 bids and solicit new bids on the project.

8 (c) This section does not:

9 (1) Apply to work performed on construction or repair projects
10 not exceeding a total cost of \$50,000 by regular full-time
11 employees of the state or its subdivisions: *Provided*, That no more
12 than \$50,000 shall be expended on an individual project in a single
13 location in a twelve-month period;

14 (2) Prevent students enrolled in vocational educational
15 schools from being used in the construction or repair projects when
16 such use is a part of the students' training program;

17 (3) Apply to emergency repairs to building components and
18 systems: *Provided*, That the term "emergency repairs" means repairs
19 that, if not made immediately, will seriously impair the use of the
20 building components and systems or cause danger to those persons
21 using the building components and systems; or

22 (4) Apply to any situation where the state or a subdivision of
23 the state comes to an agreement with volunteers, or a volunteer
24 group, by which the governmental body will provide construction or
25 repair materials, architectural, engineering, technical or any
26 other professional services and the volunteers will provide the

1 necessary labor without charge to, or liability upon, the
2 governmental body: *Provided*, That the total cost of the
3 construction or repair projects does not exceed \$50,000.

4 (d) The provisions of subsection (b) of this section do not
5 apply to privately owned broadband middle mile infrastructure
6 projects.

7 **§31-15A-17c. Water Development Authority empowered to issue**
8 **broadband middle mile infrastructure revenue bonds**
9 **and refunding bonds; creation of Broadband Middle**
10 **Mile Infrastructure Revenue Debt Service Fund;**
11 **funding of Broadband Middle Mile Infrastructure**
12 **Revenue Debt Service Fund; requirements and manner**
13 **of such issuance.**

14 (a) To accomplish the purpose and intent of this article, the
15 Water Development Authority upon direction of the Infrastructure
16 and Jobs Development Council is hereby empowered to issue from time
17 to time broadband middle mile infrastructure revenue bonds of the
18 state in such principal amounts as the council deems necessary to
19 make loans and loan guarantees and other forms of financial
20 assistance to project sponsors for one or more broadband middle
21 mile infrastructure projects: *Provided*, That the Water Development
22 Authority may not issue any such bonds, other than refunding bonds,
23 unless the council by resolution determines that the aggregate cost
24 of the broadband middle mile infrastructure projects expected to be
25 constructed during any annual period exceeds: (1) The projected

1 annual broadband infrastructure revenues for the same period; and
2 (2) the principal and interest payments not otherwise pledged to
3 the Broadband Middle Mile Infrastructure Revenue Debt Service Fund
4 that are due the Water Development Authority on all outstanding
5 loans previously made by the authority pursuant to the provisions
6 of this article.

7 (b) The proceeds of broadband middle mile infrastructure
8 revenue bonds shall be used solely for the purpose of making loans
9 and loan guarantees and other forms of financial assistance to
10 sponsors of one or more broadband middle mile infrastructure
11 projects, and shall be deposited in one or more special accounts
12 with the trustee under the trust agreement securing such bonds and
13 disbursed from time to time for broadband middle mile
14 infrastructure projects in accordance with this article.

15 (c) The Water Development Authority may not authorize the
16 disbursement of any proceeds of broadband middle mile
17 infrastructure revenue bonds unless it has received from the
18 Infrastructure Jobs Development Council the documentation required
19 by section ten-a of this article.

20 (d) There is hereby created in the Water Development Authority
21 a special fund which shall be designated and known as the "West
22 Virginia Broadband Middle Mile Infrastructure Revenue Debt Service
23 Fund," into which shall be transferred solely from the loan
24 repayments deposited in the Infrastructure Fund for Broadband
25 Middle Mile Development the amounts certified by the authority as
26 necessary to pay the principal, premium, if any, and interest on

1 broadband middle mile infrastructure revenue bonds and any reserve
2 requirements, subject to the terms of any agreement with the
3 holders of the broadband middle mile infrastructure revenue bonds.
4 All amounts deposited in the West Virginia Broadband Middle Mile
5 Infrastructure Revenue Debt Service Fund shall be pledged to the
6 repayment of the principal, interest and redemption premium, if
7 any, on any broadband middle mile infrastructure revenue bonds
8 authorized by this article: *Provided*, That amounts on deposit in
9 the fund may be used to establish or maintain reserves created for
10 the purposes of securing the broadband middle mile infrastructure
11 revenue bonds. The pledge shall be valid and binding from the time
12 the pledge is made, and the West Virginia Broadband Middle Mile
13 Infrastructure Revenue Debt Service Fund so pledged shall
14 immediately be subject to the lien of the pledge without any
15 physical delivery thereof or further act, and the lien of any such
16 pledge shall be valid and binding as against all parties having
17 claims of any kind in tort, contract or otherwise against the Water
18 Development Authority irrespective of whether the parties have
19 notice thereof.

20 (e) Except as may otherwise be expressly provided in this
21 article or by resolution of the Water Development Authority, every
22 issue of broadband middle mile infrastructure revenue bonds shall
23 be special obligations of the Water Development Authority payable
24 solely from amounts in the West Virginia Broadband Middle Mile
25 Infrastructure Revenue Debt Service Fund, and the reserves created
26 for this purpose by the Water Development Authority, without

1 preference or priority among the bonds regardless of when issued,
2 subject only to any agreements with the holders of any bonds to the
3 contrary. All such bonds are hereby declared to be negotiable
4 instruments.

5 (f) Broadband middle mile infrastructure revenue bonds shall
6 be authorized by resolution of the Water Development Authority.
7 These bonds shall bear such dates and shall mature at such times,
8 in case of any note or renewal thereof not exceeding five years
9 from the date of issue of the original note, and in the case of any
10 bond not exceeding fifty years from the date of issue, as the
11 resolution may provide. Broadband middle mile infrastructure
12 revenue bonds shall bear interest at a rate or rates, including
13 variable rates, shall be taxable or tax-exempt, shall be in the
14 denominations, shall be in registered form, shall carry the
15 registration privileges, shall be payable in the medium and place
16 of payment, and shall be subject to the terms of redemption as the
17 Water Development Authority may authorize. Broadband middle mile
18 infrastructure revenue bonds may be sold by Water Development
19 Authority at public or private sale at the price the authority
20 determines in consultation with the council. Broadband middle mile
21 infrastructure revenue bonds shall be executed by the chairman and
22 the vice chairman of the Water Development Authority, either or
23 both of whom may use a facsimile signature. The official seal of
24 the Water Development Authority or a facsimile thereof shall be
25 affixed thereto or printed thereon and attested by manual or
26 facsimile signature by the secretary-treasurer of the Water

1 Development Authority. If any officer whose signature, or a
2 facsimile of whose signature appears on any broadband
3 infrastructure revenue bond ceases to be such officer before
4 delivery of such bond, such signature or facsimile is nevertheless
5 sufficient for all purposes to the same extent as if he or she had
6 remained in office until such delivery, and if the seal of the
7 Water Development Authority has been changed after a facsimile has
8 been imprinted on such bond, the facsimile will continue to be
9 sufficient for all purposes.

10 (g) Any resolution authorizing any broadband infrastructure
11 revenue bonds may contain provisions, subject to any agreement with
12 bondholders or noteholders which may then exist, which agreements
13 shall be part of the contract with the holder thereof, with respect
14 to the pledge of or other use and disposition of amounts in the
15 Broadband Middle Mile Infrastructure Revenue Debt Service Fund; the
16 setting aside of reserve funds; the disposition of any assets of
17 the Water Development Authority; limitations on the purpose to
18 which the proceeds of sale of bonds may be applied; the
19 authorization of notes issued in anticipation of the issuance of
20 bonds; an agreement of the Water Development Authority to do all
21 things necessary for the authorization, issuance and sale of such
22 bonds in such amounts as may be necessary for the timely retirement
23 of such notes; limitations on the issuance of additional bonds; the
24 terms upon which additional bonds may be issued and secured; the
25 refunding of outstanding bonds and the renewal of outstanding
26 notes; the procedures, if any, by which the terms of any contract

1 with bondholders or noteholders may be amended or abrogated; the
2 amount of bonds the holders of which must consent thereto and the
3 manner in which such consent may be given; and any other matter
4 which in any way affects the security for or protection of the
5 bonds.

6 (h) In the event that the sum of all reserves pledged to the
7 payment of the bonds is less than the minimum reserve requirements
8 established in any resolution or resolutions authorizing the
9 issuance of the bonds, the chairman of the Water Development
10 Authority shall certify, on or before December 1 of each year, the
11 amount of such deficiency to the Governor of the state for
12 inclusion, if the Governor shall so elect, of the amount of such
13 deficiency in the budget to be submitted to the next session of the
14 Legislature for appropriation to the Infrastructure and Jobs
15 Development Council to be pledged for payment of such bonds:
16 Provided, That the Legislature shall not be required to make any
17 appropriations so requested, and the amount of such deficiencies
18 shall not constitute a debt or liability of the state.

19 (i) Neither the officers or board members of the Water
20 Development Authority or the Infrastructure and Jobs Development
21 Council, nor any person executing the broadband middle mile
22 infrastructure revenue bonds, shall be liable personally on the
23 bonds or be subject to any personal liability or accountability by
24 reason of the issuance thereof.

25 **§31-15A-18a. Trustee for holders of broadband middle mile**
26 **infrastructure revenue bonds; contents of trust**

1 agreement.

2 (a) Any broadband middle mile infrastructure revenue bonds
3 issued by the Water Development Authority under this article shall
4 be secured by a trust agreement between the Water Development
5 Authority and a corporate trustee, which trustee may be any trust
6 company or banking institution having the powers of a trust company
7 within this state.

8 (b) Any trust agreement may pledge or assign the Broadband
9 Middle Mile Infrastructure Revenue Debt Service Fund. Any trust
10 agreement or any resolution providing for the issuance of such
11 bonds may contain such provisions for protecting and enforcing the
12 rights and remedies of the bondholders or noteholders as are
13 reasonable and proper and not in violation of law, including the
14 provisions contained in section seventeen-a of this article, and
15 covenants setting forth the duties of the Water Development
16 Authority in respect to the payment of the principal of and
17 interest, charges and fees on loans made to, or bond purchases
18 from, governmental agencies from the proceeds of the bonds, and the
19 custody, safeguarding and application of all moneys. Any banking
20 institution or trust company incorporated under the laws of this
21 state which may act as depository of the proceeds of bonds or of
22 the Broadband Middle Mile Infrastructure Revenue Debt Service Fund
23 shall furnish such indemnifying bonds or pledge securities as are
24 required by the Water Development Authority. The trust agreement
25 may set forth the rights and remedies of the bondholders and
26 noteholders and of the trustee and may restrict individual rights

1 of action by bondholders and noteholders as customarily provided in
2 trust agreements or trust indentures securing similar bonds and
3 notes. The trust agreement may contain such other provisions as the
4 water development authority deems reasonable and proper for the
5 security of the bondholders or noteholders. All expenses incurred
6 in carrying out the provisions of any such trust agreement may be
7 treated as part of the cost of the construction, renovation,
8 repair, improvement or acquisition of a project or infrastructure
9 project.

10 **§31-15A-19a. Legal remedies of broadband middle mile**
11 **infrastructure revenue bondholders or**
12 **noteholders and trustees.**

13 Any holder of broadband middle mile infrastructure revenue
14 bonds issued pursuant to this article and the trustee under any
15 trust agreement, except to the extent the rights given by this
16 article may be restricted by the applicable resolution or trust
17 agreement, may by civil action, mandamus or other proceedings
18 protect and enforce any rights granted under the laws of this state
19 or granted under this article, by the trust agreement or by the
20 resolution in the issuance of the bonds, and may enforce and compel
21 the performance of all duties required by this article, pursuant to
22 the trust agreement or resolution, to be performed by the Water
23 Development Authority or any officer thereof.

24 **§31-15A-20a. Broadband middle mile infrastructure revenue bonds**
25 **lawful investments.**

1 All broadband middle mile infrastructure revenue bonds issued
2 pursuant to this article shall be lawful investments for banking
3 institutions, societies for savings, building and loan
4 associations, savings and loan associations, deposit guarantee
5 associations, trust companies, and insurance companies, including
6 domestic for life and domestic not for life insurance companies.

7 **§31-15A-21a. Purchase and cancellation of broadband middle mile**
8 **infrastructure revenue bonds.**

9 (a) The Water Development Authority, subject to such
10 agreements with noteholders or bondholders as may then exist, shall
11 have the power, from any funds available therefor, to purchase or
12 redeem broadband middle mile infrastructure revenue bonds of the
13 council.

14 (b) If the broadband middle mile infrastructure revenue bonds
15 are then redeemable, the price of the purchase shall not exceed the
16 redemption price then applicable, plus accrued interest to the next
17 interest payment date thereon. If the broadband middle mile
18 infrastructure revenue bonds are not then redeemable, the price of
19 the purchase shall not exceed the redemption price applicable on
20 the first date after the purchase upon which the bonds become
21 subject to redemption, plus accrued interest to such date. Upon
22 purchase or redemption, the bonds shall be canceled.

23 **§31-15A-22a. Refunding broadband middle mile revenue bonds.**

24 Any broadband middle mile infrastructure revenue bonds issued
25 pursuant to the provisions of this article and at any time

1 outstanding may at any time and from time to time be refunded by
2 the Water Development Authority by the issuance of its refunding
3 revenue bonds in an amount it deems necessary to refund the
4 principal of the bonds to be refunded, together with any unpaid
5 interest thereon, to provide additional funds for the Water
6 Development Authority to, in its discretion, issue additional
7 revenue bonds, and to pay any premiums and commissions necessary to
8 be paid in connection therewith. Any refunding may be effected
9 whether the broadband middle mile infrastructure revenue bonds to
10 be refunded shall have then matured or shall thereafter mature:
11 Provided, That the holders of any broadband middle mile
12 infrastructure revenue bonds so to be refunded shall not be
13 compelled without their consent to surrender their broadband middle
14 mile infrastructure revenue bonds for payment or exchange prior to
15 the date on which they are payable or, if they are called for
16 redemption, prior to the date on which they are by their terms
17 subject to redemption. Any refunding revenue bonds issued pursuant
18 to this article shall be payable from the West Virginia Broadband
19 Middle Mile Infrastructure Revenue Debt Service Fund, and shall be
20 subject to the provisions contained in section seventeen-c of this
21 article, and shall be secured in accordance with the provisions of
22 sections seventeen-c and eighteen-a of this article.

23 **§31-15A-23a. Broadband middle mile infrastructure revenue bonds**
24 **not debt of state, county, municipality or any**
25 **political subdivision.**

1 Broadband middle mile infrastructure revenue bonds issued
2 pursuant to the provisions of this article shall not constitute a
3 debt or a pledge of the faith and credit or taxing power of this
4 state or of any county, municipality or any other political
5 subdivision of this state. The holders or owners thereof shall have
6 no right to have taxes levied by the Legislature or the taxing
7 authority of any county, municipality or any other political
8 subdivision of this state for the payment of the principal thereof
9 or interest thereon. The broadband middle mile revenue bonds shall
10 be payable solely from the revenues and funds pledged for their
11 payment as authorized by this article. All such bonds shall contain
12 on the face thereof a statement to the effect that the bonds, as to
13 both principal and interest, are not debts of the state or any
14 county, municipality or political subdivision thereof, but are
15 payable solely from revenues and funds pledged for their payment.

16 **§31-15A-24a. Broadband middle mile infrastructure revenue bonds**
17 **exempt from taxation.**

18 The exercise of the powers granted to the Water Development
19 Authority by this article will be in all respects for the benefit
20 of the people of the state, for the improvement of their health,
21 safety, convenience and welfare and for the enhancement of their
22 residential, agricultural, recreational, economic, commercial and
23 industrial opportunities and is for a public purpose. As the
24 construction, acquisition, repair or renovation of broadband middle
25 mile infrastructure projects will constitute the performance of
26 essential governmental functions, the Water Development Authority

1 shall not be required to pay any taxes or assessments upon any
2 project or upon any property acquired or used by the Water
3 Development Authority or upon the income therefrom. The broadband
4 middle mile infrastructure revenue bonds and all interest and
5 income thereon shall be exempt from all taxation by this state, or
6 any county, municipality, political subdivision or agency thereof,
7 except estate taxes.