

ENROLLED

Senate Bill No. 676

(BY SENATORS PREZIOSO, D. FACEMIRE, CHAFIN, EDGELL,
GREEN, HELMICK, LAIRD, MCCABE, MILLER, PLYMALE,
STOLLINGS, UNGER, WELLS, YOST, BOLEY, HALL AND SYPOLT)

[Passed March 9, 2012; in effect from passage.]

AN ACT to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to Chesapeake Bay watershed compliance projects; and specifying dates by which eligible projects may apply for grant funding.

Be it enacted by the Legislature of West Virginia:

That §31-15A-17b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

**§31-15A-17b. Infrastructure lottery revenue bonds for watershed
compliance projects.**

- 1 (a)(1) The Chesapeake Bay has been identified as an
- 2 impaired water body due to excessive nutrients entering the
- 3 Bay from various sources in six states, including wastewater
- 4 facilities in West Virginia. To restore the Chesapeake Bay,
- 5 the states have agreed to reduce their respective nutrient
- 6 contributions to the Chesapeake Bay.

7 (2) The Greenbrier River Watershed in southeastern West
8 Virginia which encompasses approximately 1,646 square
9 miles, the majority of which lies within Pocahontas,
10 Greenbrier, Monroe and Summers counties, has been
11 identified as an impaired water body due to excessive levels
12 of fecal coliform and phosphorus entering the Watershed
13 from various sources, including wastewater facilities in West
14 Virginia. To restore the Greenbrier River Watershed, the
15 state agrees to reduce the fecal coliform and phosphorus
16 contributions to the Greenbrier River Watershed.

17 (b) Notwithstanding any other provision of this code to
18 the contrary, the Water Development Authority may issue, in
19 accordance with the provisions of section seventeen of this
20 article, infrastructure lottery revenue bonds payable from
21 the West Virginia infrastructure lottery revenue debt service
22 fund created by section nine of this article and such other
23 sources as may be legally pledged for such purposes other
24 than the West Virginia infrastructure revenue debt service
25 fund created by section seventeen of this article.

26 (c) The council shall direct the Water Development
27 Authority to issue bonds in one or more series when it has
28 approved Chesapeake Bay watershed compliance projects
29 and Greenbrier River watershed compliance projects with an
30 authorized permitted flow of four hundred thousand gallons
31 per day or more. The proceeds of the bonds shall be used
32 solely to pay costs of issuance, fund a debt service reserve
33 account, capitalize interest, pay for security instruments
34 necessary to market the bonds and to make grants to govern-
35 mental instrumentalities of the state for the construction of
36 approved Chesapeake Bay watershed compliance projects
37 and Greenbrier River watershed compliance projects. To the
38 extent funds are available in the West Virginia Infrastruc-
39 ture Lottery Revenue Debt Service Fund that are not needed
40 for debt service, the council may direct the Water Develop-
41 ment Authority to make grants to project sponsors for the
42 design or construction of approved Chesapeake Bay water-
43 shed compliance projects and Greenbrier River watershed
44 compliance projects: *Provided*, That the council shall direct

45 the water development authority to provide from monies in
46 the Lottery Revenue Debt Service Fund not needed to pay
47 debt service in fiscal year 2013 a grant of \$6 million to a
48 Chesapeake Bay watershed compliance project which opened
49 bids on December 28, 2011 and further provided that such
50 Chesapeake Bay watershed compliance project shall receive
51 no further grant funding under this section after receipt of
52 the \$6 million grant.

53 (d) No later than June 30, 2012, each publicly owned
54 facility with an authorized permitted flow of 400,000 gallons
55 per day or more that is subject to meeting Chesapeake Bay
56 compliance standards or Greenbrier River watershed
57 compliance standards shall submit to the council a ten year
58 projected capital funding plan for Chesapeake Bay water-
59 shed compliance projects or Greenbrier River watershed
60 compliance projects, as the case may be, including a general
61 project description, cost estimate and estimated or actual
62 project start date and project completion date, if any. The
63 council shall timely review the submitted capital funding
64 plans and forward approved plans to the Water Development
65 Authority for further processing and implementation
66 pursuant to this article. If the council finds a plan to be
67 incomplete, inadequate or otherwise problematic, it shall
68 return the plan to the applicant with comment on the plan
69 shortcomings. The applicant may then resubmit to council an
70 amended capital funding plan for further consideration
71 pursuant to the terms of this subsection.

72 (e) Upon approval, each proposed Chesapeake Bay
73 watershed compliance project or Greenbrier River watershed
74 compliance project, or portion of a larger project, which
75 portion is dedicated to compliance with nutrient standards,
76 or fecal coliform and phosphorus standards, established for
77 the protection and restoration of the Chesapeake Bay or the
78 Greenbrier River Watershed, as the case may be, shall be
79 eligible for grant funding by funds generated by the infra-
80 structure lottery revenue bonds described in section (b) of
81 this section. At the request of the applicant, the remaining
82 percentage of project funding not otherwise funded by grant

83 under the provisions of this article may be reviewed as a
84 standard project funding application.

85 (f) No later than December 1, 2012, the Water Develop-
86 ment Authority shall report to the Joint Committee on
87 Government and Finance the total cost of Chesapeake Bay
88 watershed compliance projects and the Greenbrier River
89 watershed compliance projects and the proposed grant
90 awards for each eligible project. Grant awards shall be of
91 equal ratio among all applicants of the total cost of each
92 eligible project.

93 (g) Eligible projects that have obtained project financing
94 prior to December 31, 2012, may apply to the council for
95 funding under the provisions of this section. These applica-
96 tions shall be processed and considered as all other eligible
97 projects, and a grant funding awarded shall, to the extent
98 allowed by law, be dedicated to prepay all or a portion of
99 debt previously incurred by governmental instrumentalities
100 of the state for required Chesapeake Bay nutrient removal
101 projects or Greenbrier River watershed fecal coliform and
102 phosphorus removal projects, subject to the bond covenants
103 and contractual obligations of the borrowing governmental
104 entity. However, any private portion of funding provided by
105 agreement between a political subdivision and one or more
106 private entities, either by direct capital investment or debt
107 service obligation, shall not be eligible for grant funding
108 under the provisions of this article.