

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)

[Originating in the Committee on Finance;
reported February 27, 2012.]

A BILL 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.

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

64 (e) Upon approval, each proposed Chesapeake Bay
65 watershed compliance project or Greenbrier River watershed
66 compliance project, or portion of a larger project, which

67 portion is dedicated to compliance with nutrient standards,
68 or fecal coliform and phosphorus standards, established for
69 the protection and restoration of the Chesapeake Bay or the
70 Greenbrier River Watershed, as the case may be, shall be
71 eligible for grant funding by funds generated by the infra-
72 structure lottery revenue bonds described in section (b) of
73 this section. At the request of the applicant, the remaining
74 percentage of project funding not otherwise funded by grant
75 under the provisions of this article may be reviewed as a
76 standard project funding application.

77 (f) No later than December 1, 2012, the Water Develop-
78 ment Authority shall report to the Joint Committee on
79 Government and Finance the total cost of Chesapeake Bay
80 watershed compliance projects and the Greenbrier River
81 watershed compliance projects and the proposed grant
82 awards for each eligible project. Grant awards shall be of
83 equal ratio among all applicants of the total cost of each
84 eligible project.

85 (g) Eligible projects that have obtained project financing
86 prior to December 31, ~~2011~~ 2012, may apply to the council
87 for funding under the provisions of this section. These
88 applications shall be processed and considered as all other

89 eligible projects, and a grant funding awarded shall, to the
90 extent allowed by law, be dedicated to prepay all or a
91 portion of debt previously incurred by governmental instru-
92 mentalities of the state for required Chesapeake Bay nutrient
93 removal projects or Greenbrier River watershed fecal
94 coliform and phosphorus removal projects, subject to the
95 bond covenants and contractual obligations of the borrowing
96 governmental entity. However, any private portion of
97 funding provided by agreement between a political subdivi-
98 sion and one or more private entities, either by direct capital
99 investment or debt service obligation, shall not be eligible
100 for grant funding under the provisions of this article.