

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2013



ENROLLED

Senate Bill No. 596

(BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,
BY REQUEST OF THE EXECUTIVE)

[PASSED APRIL 13, 2013; IN EFFECT FROM PASSAGE.]

E N R O L L E D

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(BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed April 13, 2013; in effect from passage.]

AN ACT to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Infrastructure and Jobs Development Council to direct the Water Development Authority to make grants to certain eligible certified Chesapeake Bay and Greenbrier River watershed compliance projects.

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 the
21 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
35 governmental instrumentalities of the state for the
36 construction of approved Chesapeake Bay watershed

37 compliance projects and Greenbrier River watershed
38 compliance projects. To the extent funds are available in the
39 West Virginia Infrastructure Lottery Revenue Debt Service
40 Fund that are not needed for debt service, the council may
41 direct the Water Development Authority to make grants to
42 project sponsors for the design or construction of approved
43 Chesapeake Bay watershed compliance projects and
44 Greenbrier River watershed compliance projects: *Provided,*
45 That the council shall direct the Water Development
46 Authority to provide from moneys in the Lottery Revenue
47 Debt Service Fund not needed to pay debt service in fiscal
48 year 2013 a grant of \$6 million to a Chesapeake Bay
49 watershed compliance project which opened bids on
50 December 28, 2011, and further provided that such
51 Chesapeake Bay watershed compliance project shall receive
52 no further grant funding under this section after receipt of the
53 \$6 million grant.

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

71 capital funding plan for further consideration pursuant to the
72 terms of this subsection.

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

86 (f) No later than December 1, 2012, the Water
87 Development Authority shall report to the Joint Committee
88 on Government and Finance the total cost of Chesapeake Bay
89 watershed compliance projects and the Greenbrier River
90 watershed compliance projects and the proposed grant
91 awards for each eligible project. From the proceeds of bonds
92 issued under subsection (b) of this section, the council shall
93 direct the Water Development Authority to make grants to
94 eligible projects ready to proceed to construction and those
95 grant awards shall be pro rated to an equal percentage of total
96 eligible costs among all applicants for each eligible project
97 as certified by the Water Development Authority in its report
98 to the Joint Committee on Government and Finance dated
99 November 28, 2012: *Provided*, That the final project, and its
100 financing, is consistent with the scope of the eligible project
101 included in the council's approval on December 5, 2012.

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

The Joint Committee on Enrolled Bills hereby certifies that
the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the

Day of, 2013.

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Governor