

Senate Bill No. 596

(By Senators Kessler (Mr. President) and M. Hall,
By Request of the Executive)

[Introduced March 21, 2013; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

A BILL to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to the determination of the amount of grant awards for Chesapeake Bay watershed compliance projects and the 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 from
13 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
53 the \$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 ~~of equal ratio~~ pro rated to an equal
96 percentage of total eligible costs among all applicants ~~of the~~
97 ~~total cost of~~ for each eligible project as certified by the Water
98 Development Authority in its report to the Joint Committee
99 on Government and Finance dated November 28, 2012:
100 *Provided, That the final project, and its financing, is*
101 *consistent with the scope of the eligible project included in*
102 *the council's approval on December 5, 2012.*

103 (g) Eligible projects that have obtained project financing
104 prior to December 31, 2012, may apply to the council for
105 funding under the provisions of this section. These
106 applications shall be processed and considered as all other
107 eligible projects, and a grant funding awarded shall, to the
108 extent allowed by law, be dedicated to prepay all or a portion
109 of debt previously incurred by governmental
110 instrumentalities of the state for required Chesapeake Bay

111 nutrient removal projects or Greenbrier River watershed fecal
112 coliform and phosphorus removal projects, subject to the
113 bond covenants and contractual obligations of the borrowing
114 governmental entity. However, any private portion of
115 funding provided by agreement between a political
116 subdivision and one or more private entities, either by direct
117 capital investment or debt service obligation, shall not be
118 eligible for grant funding under the provisions of this article.

(NOTE: The purpose of this bill is to make provision for determination of the amount of grant awards for Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)