

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4339**

5 (By Delegates Campbell, Hartman, Lynch, Sponaugle, Manchin, White
6 and Hamilton)

7
8 [Passed March 8, 2014; in effect ninety days from passage.]
9

10 AN ACT to amend and reenact §22-16-11 and §22-16-12 of the Code of
11 West Virginia, 1931, as amended, relating to authorizing the
12 expenditures of moneys from the Closure Cost Assistance Fund
13 to facilitate the closure of the Elkins-Randolph County
14 Landfill and the Webster County Landfill; authorizing
15 expenditures of moneys from the Closure Cost Assistance Fund
16 to complete post closure maintenance and monitoring; and
17 limiting liability of state and Wayne County economic
18 development authority if permit is transferred.

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

20 That §22-16-11 and §22-16-12 of the Code of West Virginia,
21 1931, as amended, be amended and reenacted, all to read as follows:

22 **ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.**

23 **§22-16-11. Application for closure assistance.**

24 (a) The secretary shall provide an application and application
25 procedure for all permittees of solid waste landfills desiring to
26 receive closure assistance under this article.

1 (b) The secretary shall, within a reasonable time after
2 receipt of a complete application, notify the applicant of the
3 acceptance or rejection of the application. If the application is
4 rejected the notice shall contain the reasons for the rejection.

5 **§22-16-12. Solid Waste Facility Closure Cost Assistance Fund;**
6 **closure extension; reporting requirements.**

7 (a) The "Closure Cost Assistance Fund" continues as a special
8 revenue account in the State Treasury. The fund operates as a
9 special fund in which all deposits and payments do not expire to
10 the General Revenue Fund, but remain in the account and are
11 available for expenditure in the succeeding fiscal year. Separate
12 subaccounts may be established within the special account for the
13 purpose of identification of various revenue resources and payment
14 of specific obligations.

15 (b) Interest earned on any money in the fund shall be
16 deposited to the credit of the fund.

17 (c) The fund consists of the following:

18 (1) Moneys collected and deposited in the State Treasury which
19 are specifically designated by Acts of the Legislature for
20 inclusion in the fund, including moneys collected and deposited
21 into the fund pursuant to section four of this article;

22 (2) Contributions, grants and gifts from any source, both
23 public and private, which may be used by the secretary for any
24 project or projects;

25 (3) Amounts repaid by permittees pursuant to section eighteen,
26 article fifteen of this chapter; and

1 (4) All interest earned on investments made by the state from
2 moneys deposited in this fund.

3 (d) The Solid Waste Management Board, upon written approval of
4 the secretary, has the authority to pledge all or part of the
5 revenues paid into the Closure Cost Assistance Fund as needed to
6 meet the requirements of any revenue bond issue or issues of the
7 Solid Waste Management Board authorized by this article, including
8 the payment of principal of, interest and redemption premium, if
9 any, on the revenue bonds and the establishing and maintaining of
10 a reserve fund or funds for the payment of the principal of,
11 interest and redemption premium, if any, on the revenue bond issue
12 or issues where other moneys pledged may be insufficient. Any
13 pledge of moneys in the Closure Cost Assistance Fund for revenue
14 bonds is a prior and superior charge on the fund over the use of
15 any of the moneys in the fund to pay for the cost of any project on
16 a cash basis. Expenditures from the fund, other than for the
17 retirement of revenue bonds, may only be made in accordance with
18 this article.

19 (e) The amounts deposited in the fund may be expended only on
20 the cost of projects as provided in sections three and fifteen of
21 this article, as provided in subsection (f) of this section and for
22 payment of bonds and notes issued pursuant to section five of this
23 article. No more than two percent of the annual deposits to the
24 fund may be used for administrative purposes.

25 (f) Notwithstanding any provision of this article, upon
26 request of the Solid Waste Management Board, and with the approval

1 of the projects by the Secretary of the Department of Environmental
2 Protection, the secretary may pledge and place into escrow accounts
3 up to an aggregate of \$2,000,000 of the fund to satisfy two years
4 debt service requirement that permittees of publicly-owned landfills
5 and transfer stations are required to meet in order to obtain
6 loans. Pledges shall be made on a project-by-project basis, may not
7 exceed \$500,000 for a project and are made available after loan
8 commitments are received. The secretary may pledge funds for a loan
9 only when the following conditions are met:

10 (1) The proceeds of the loan are used only to perform
11 construction of a transfer station or a composite liner system that
12 is required to meet title forty-seven, series thirty-eight, solid
13 waste management rules;

14 (2) The permittee dedicates all yearly debt service revenue,
15 as determined by the Public Service Commission, to meet the
16 repayment schedule of the loan, before it uses available revenue
17 for any other purpose; and

18 (3) That any funds pledged may only be paid to the lender if
19 the permittee is in default on the loan.

20 (g) Notwithstanding any provision of this code to the
21 contrary, the Elkins-Randolph County Landfill, located in Randolph
22 County, and the Webster County Landfill, located in Webster County,
23 are eligible for funds from the Solid Waste Facility Closure Cost
24 Assistance Fund necessary to complete their closure upon the filing
25 of appropriate application. Upon the filing of an appropriate
26 application, the Department of Environmental Protection shall work

1 with the applicant to ensure the application meets the department's
2 requirements.

3 (h) The Department of Environmental Protection is required to
4 file, by January 1 of each year, an annual report with the Joint
5 Committee on Government and Finance providing details on the manner
6 in which the landfill closure assistance funds were expended for
7 the prior fiscal year.

8 (i) The Prichard Landfill in Wayne County is eligible for
9 funds from the Closure Cost Assistance Fund necessary to complete
10 post closure maintenance and monitoring upon the filing of an
11 appropriate application. In the event of a permit transfer,
12 neither the State nor the Wayne County economic development
13 authority or entity may assume any liability from the private
14 landfill other than post closure maintenance and monitoring costs.