

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 65**

BY SENATORS ROMANO, FACEMIRE, JEFFRIES AND OJEDA

[Introduced February 8, 2017; referred  
to the Committee on Government Organization; and then  
to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §22-1-18, relating to Department of Environmental Protection fines against  
3 governmental entities or political subdivisions of the state; creating the Department of  
4 Environmental Protection Public Improvements Fund, an interest-bearing escrow account  
5 managed by the Department of Environmental Protection; requiring a portion of all  
6 Department of Environmental Protection fines against governmental entities or political  
7 subdivisions of the state be deposited in the Department of Environmental Protection  
8 Public Improvements Fund for remediating the violation that gave rise to the fine; stating  
9 a process for application for funds; authorizing the release of the funds in certain  
10 circumstances; permitting the transfer of the interest accrued to the Department of  
11 Environmental Protection; and authorizing the transfer of the funds to the Department of  
12 Environmental Protection under certain circumstances.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 section, designated §22-1-18, to read as follows:

## **ARTICLE 1. DEPARTMENT OF ENVIRONMENTAL PROTECTION.**

### **§22-1-18. Public improvements fund.**

1 (a) Notwithstanding any other provision of this code to the contrary, as of the effective date  
2 of this section any fine levied pursuant to this chapter against a governmental entity or political  
3 subdivision of this state, including any municipality or county, shall be distributed according to this  
4 section. Any amount fined shall be paid to the department and the department shall deposit  
5 seventy-five percent of the amount into an interest-bearing escrow account known as the  
6 Department of Environmental Protection Public Improvements Fund, while the remainder of the  
7 fine shall be distributed or used according to the relevant section or sections of this code under  
8 which the fine is levied.

9 (b) The amounts placed in the Department of Environmental Protection Public

10 Improvements Fund may only be used by the governmental entity or political subdivision fined,  
11 along with other funds, to correct the violation that was the basis of the fine through an approved  
12 corrective action plan. To access the funds, the governmental entity or political subdivision fined  
13 shall submit a corrective action plan to the department for review in accordance with other  
14 provisions of this chapter. The department shall release the funds for expenditure to remediate  
15 the violation in accordance with an approved corrective action plan or detail specific modifications  
16 to the corrective action plan that will result in the release of the funds if adopted.

17 (c) Any interest generated from the funds in the Department of Environmental Protection  
18 Public Improvements Fund shall be used by the department to offset the costs of managing the  
19 fund and any other costs associated with official department business. The department may  
20 transfer the interest accrued to the department's general operating account as it determines  
21 necessary. If the violation is remediated without the use of the funds in the Department of  
22 Environmental Protection Public Improvements Fund or if the funds remain in the fund for ten  
23 years without being used to correct the violation, then the funds may be transferred to the  
24 department's general operating account.

NOTE: The purpose of this bill is to create the Department of Environmental Protection Public Improvements Fund, an interest-bearing escrow account managed by the Department of Environmental Protection. The bill sets aside a portion of Department of Environmental Protection fines against political subdivisions of this state so that they may be used in order to remediate violations sooner rather than later.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.