

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 496

BY SENATORS SWOPE, STOLLINGS, AND SMITH

[Introduced January 27, 2022; referred
to the Committee on Finance]

FISCAL NOTE

1 A BILL to amend and reenact §31-15A-10 and §31-15A-17c of the Code of West Virginia, 1931,
2 as amended, all relating to permissible expenditures by the Water Development Authority
3 from the Infrastructure Fund; permitting grants to a project sponsor with less than 1,500
4 customers of up to 100 percent of the total cost of the project; and allowing the authority
5 to grant infrastructure grant money from the Critical Needs and Failing Systems Sub
6 Account to certain projects for the upgrading of a water facility or wastewater facility to
7 reduce maintenance costs, operations costs, or waterline leakages.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT
COUNCIL.**

**§31-15A-10. Recommendations by council for expenditures of funds by loan, grant, or for
engineering assistance.**

1 (a) To further accomplish the purpose and intent of this article, the Water Development
2 Authority shall use the moneys in the Infrastructure Fund created pursuant to §31-15A-9 of this
3 code, upon receipt of one or more recommendations from the council pursuant to §31-15A-5 of
4 this code, to make loans, with or without interest, loan guarantees, or grants and to provide other
5 assistance, financial, technical, or otherwise, to finance all or part of the costs of infrastructure
6 projects or projects to be undertaken by a project sponsor: *Provided*, That any moneys disbursed
7 from the Infrastructure Fund in the form of grants shall not exceed 25 percent of the total funds
8 available for the funding of projects: *Provided, however*, That if on January 1 of any year, the
9 amount available for grants in any congressional district is below \$150,000, the council may
10 convert up to 30 percent of the funds available for loans in that congressional district to be used
11 for grants within the congressional district, if and when needed to make an award. No loan, loan
12 guarantee, grant, or other assistance shall be made or provided except upon a determination by
13 the council that the loan, loan guarantee, grant, or other assistance and the manner in which it

14 will be provided are necessary or appropriate to accomplish the purposes and intent of this article,
15 based upon an application submitted to the council: *Provided further*, That no grant shall be made
16 to a project sponsor that is not a governmental agency or a not-for-profit corporation under the
17 provisions of Section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for
18 loans, loan guarantees, grants, or other assistance may be submitted by a project sponsor for
19 one or more infrastructure projects on preliminary application forms prepared by the council
20 pursuant to §31-15A-4 of this code. Any recommendation of the council approving a loan, loan
21 guarantee, grant, or other assistance shall include a finding and determination by the council that
22 the requirements of this section have been met. The council shall base any decisions to loan
23 money for projects to project sponsors pursuant to this article solely on the need of the project
24 sponsors.

25 (b) The council has the authority in its sole discretion to make grants to project sponsors
26 if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden
27 given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents
28 funding of the project except through grants: *Provided*, That no project sponsor shall receive
29 infrastructure grant money in an amount in excess of 50 percent of the total cost of the project:
30 *Provided, however, That any project sponsor with less than 1500 customers may receive up to*
31 *100 percent of the total cost of the project.* Therefore, the council may consider the economic or
32 financial conditions of the area to be served. As a condition for receipt of a grant under this
33 subsection, the council may require, in addition to any other conditions, that the applicant pursue
34 other state or federal grant or loan programs. Upon a recommendation by the council, the Water
35 Development Authority shall provide the grant in accordance with the recommendation. The
36 council shall develop criteria to be considered in making grants to project sponsors which shall
37 require consideration of the economic or financial conditions of the area to be served and the
38 availability of other funding sources. The council shall adopt procedural rules regarding the
39 manner in which grants will be awarded in conformity with this section. The procedural rules shall

40 be adopted pursuant to §29A-3-1 et seq. of this code.

41 (c) Notwithstanding any other provision of this article to the contrary, the council shall apply
42 a mandatory minimum end user utility rate that must be met by the project sponsor before funding
43 assistance may be awarded. The mandatory minimum end utility rate shall be based upon a
44 uniform statewide percentage of the median household income in a particular geographic area
45 and said rate shall not exceed six tenths of one percent. Funding assistance made from the
46 Infrastructure Fund for loans and grants to projects, after transfers required to make the state
47 match for the water and wastewater revolving loan programs pursuant to §22C-2-1, et seq. and
48 §16-13C-1, et seq., of this code, shall be provided by the council on a pro rata basis divided
49 equally among the congressional districts of this state as delineated in accordance with §1-2-3 of
50 this code: *Provided*, That infrastructure projects as defined in §31-15A-2(I) of this code shall not
51 be subject to pro rata distribution. When determining median household income of a geographic
52 area of the project to be served, the council shall consider any surveys of the income of the
53 households that will be served by the project.

54 (d) No loan or grant funds may be made available for a project if the project to be funded
55 will provide subsidized services to certain users in the service area of the project.

56 (e) Notwithstanding any other provision of this article to the contrary, engineering studies
57 and requirements imposed by the council for preliminary applications shall not exceed those
58 engineering studies and requirements which are necessary for the council to determine the
59 economic feasibility of the project. If the council determines that the engineering studies and
60 requirements for the preapplication would impose an undue hardship on any project sponsor, the
61 council may provide funding assistance to project sponsors to defray the expenses of the
62 preapplication process from moneys available in the Infrastructure Fund for making loans:
63 *Provided*, That the council may only provide funding assistance in an amount equal to \$5,000 or
64 50 percent of the total preapplication cost of the project, whichever amount is greater. If the project
65 is ultimately approved for a loan by the council, the amount of funding assistance provided to the

66 project sponsor for the preapplication process shall be included in the total amount of the loan to
67 be repaid by the project sponsor. If the project is not ultimately approved by the council, then the
68 amount of funding assistance provided to the project sponsor will be considered a grant by the
69 council and the total amount of the assistance shall be forgiven. In no event may the amount of
70 funding assistance provided to all project sponsors exceed, in the aggregate, \$500,000 annually.

71 (f) The council shall report to the Governor, the Speaker of the House of Delegates, and
72 the President of the Senate during each regular and interim session of the Legislature, on its
73 activities and decisions relating to distribution or planned distribution of grants and loans under
74 the criteria to be developed pursuant to this article.

§31-15A-17c. Critical Needs and Failing Systems Sub Account.

1 Notwithstanding any provision of this article to the contrary:

2 (a) The Water Development Authority shall establish a separate and segregated sub
3 account in the Infrastructure Fund designated the Critical Needs and Failing Systems Sub
4 Account into which the council may instruct the Water Development Authority to transfer from the
5 uncommitted loan balances for each congressional district on June 30 each year up to \$4 million
6 per congressional district.

7 (b) The council shall direct the Water Development Authority to make loans or grants from
8 the Critical Needs and Failing Systems Sub Account when the council determines that a project
9 will address a critical immediate need by:

10 (1) The continuation of water or wastewater services;

11 (2) Addressing water facility or wastewater facility failure due to the age of the facility or
12 facilities; ~~or~~

13 (3) Providing extensions to a water facility or wastewater facility that will add customers
14 with a total project cost of less than \$1 million; or

15 (4) Upgrading a water facility or wastewater facility to reduce the maintenance costs,
16 operations costs or waterline leakages with a total project cost of less than \$300,000.

- 17 (c) Grant limitations and allocations contained in §31-15A-10(b) and §31-15A-10(c) of this
- 18 code do not apply to grants made from the Critical Needs and Failing Systems Sub Account.

NOTE: The purpose of this bill is to allow the Water Development Authority to make loans, loan guarantees, or grants from the Infrastructure Fund of up to 100% of project costs to project sponsors with up to 1500 customers and to make loans or grants from the Critical Needs and Failing Systems Sub Account for water facility or wastewater facility maintenance projects of up to \$300,000.

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