

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENROLLED

Committee Substitute

for

Senate Bill 584

BY SENATORS JEFFRIES, LINDSAY, BALDWIN, STOLLINGS,

GRADY, AND HAMILTON

[Passed March 11, 2022; in effect from passage]

1 AN ACT to amend and reenact §31-15A-10 and §31-15A-17c of the Code of West Virginia, 1931,
2 as amended, all relating generally to the West Virginia Infrastructure and Jobs
3 Development Council; modifying when available funds may be converted to grants;
4 removing congressional district limitations; increasing the cap on annual spending for
5 assistance with the pre-application process to project sponsors; increasing the amount
6 that may be transferred annually to the critical needs and failing systems sub account; and
7 increasing the cap relating to providing extensions to a water or wastewater facility from
8 \$1 million to \$2 million provided overages not to exceed 10 percent of the total project cost
9 are paid by certain persons.

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 the first day of each month, the
9 amount available for grants is below \$1,000,000 the council may convert up to 30 percent of the
10 funds available for loans to be used for grants, if and when needed to make an award. No loan,
11 loan guarantee, grant, or other assistance shall be made or provided except upon a determination

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

24 (b) The council has the authority in its sole discretion to make grants to project sponsors
25 if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden
26 given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents
27 funding of the project except through grants: *Provided*, That no project sponsor shall receive
28 infrastructure grant money in an amount in excess of 50 percent of the total cost of the project.
29 Therefore, the council may consider the economic or financial conditions of the area to be served.
30 As a condition for receipt of a grant under this subsection, the council may require, in addition to
31 any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon
32 a recommendation by the council, the Water Development Authority shall provide the grant in
33 accordance with the recommendation. The council shall develop criteria to be considered in
34 making grants to project sponsors which shall require consideration of the economic or financial
35 conditions of the area to be served and the availability of other funding sources. The council shall
36 adopt procedural rules regarding the manner in which grants will be awarded in conformity with
37 this section. The procedural rules shall be adopted pursuant to §29A-3-1 *et seq.* of this code.

38 (c) Notwithstanding any other provision of this article to the contrary, the council shall
39 apply a mandatory minimum end user utility rate that must be met by the project sponsor before
40 funding assistance may be awarded. The mandatory minimum end utility rate shall be based upon
41 a uniform statewide percentage of the median household income in a particular geographic area
42 and said rate shall not exceed six-tenths of one percent. Effective June 15, 2022, funding
43 assistance shall be made from the Infrastructure Fund for loans and grants to projects, after
44 transfers required to make the state match for the water and wastewater revolving loan programs
45 pursuant to §22C-2-1*et seq.* and §16-13C-1*et seq.* of this code. When determining median
46 household income of a geographic area of the project to be served, the council shall consider any
47 surveys of the income of the households that will be served by the project.

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

50 (e) Notwithstanding any other provision of this article to the contrary, engineering studies
51 and requirements imposed by the council for preliminary applications shall not exceed those
52 engineering studies and requirements which are necessary for the council to determine the
53 economic feasibility of the project. If the council determines that the engineering studies and
54 requirements for the preapplication would impose an undue hardship on any project sponsor, the
55 council may provide funding assistance to project sponsors to defray the expenses of the
56 preapplication process from moneys available in the Infrastructure Fund for making loans:
57 *Provided*, That the council may only provide funding assistance in an amount equal to \$5,000 or
58 50 percent of the total preapplication cost of the project, whichever amount is greater. If the project
59 is ultimately approved for a loan by the council, the amount of funding assistance provided to the
60 project sponsor for the preapplication process shall be included in the total amount of the loan to
61 be repaid by the project sponsor. If the project is not ultimately approved by the council, then the
62 amount of funding assistance provided to the project sponsor will be considered a grant by the
63 council and the total amount of the assistance shall be forgiven. In no event may the amount of

64 funding assistance to defray the expenses of the preapplication process provided to all project
65 sponsors exceed, in the aggregate, \$1,300,000 annually.

66 (f) The council shall report to the Governor, the Speaker of the House of Delegates, and
67 the President of the Senate during each regular and interim session of the Legislature, on its
68 activities and decisions relating to distribution or planned distribution of grants and loans under
69 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 on June 30 each year, up to \$12 million.

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

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

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

12 (3) Providing extensions to a water facility or wastewater facility that will add customers
13 with a total project cost of less than \$2 million: *Provided*, That a person or governmental agency,
14 as those terms are defined in §31-15A-2 of this code, shall pay any overage not to exceed 10
15 percent of the total project cost.

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

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, 2022.

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Governor