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WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

SENATE BILL NO. 649

(By Senator McCabe, et al)

PASSED March 8, 2003

In Effect ninety days from Passage

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SENATE

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Senate Bill No. 649

(BY SENATORS MCCABE, FACEMYER, BOWMAN,
FANNING, HELMICK, MCKENZIE, MINARD, MINEAR,
PLYMALE AND PREZIOSO)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact sections four and six, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article fifteen-a, chapter thirty-one of said code by adding thereto a new section, designated section seventeen-a, all relating to providing for the use of waste tire remediation funds to finance infrastructure projects relating to waste tire processing facilities which have a capital cost of not less than three hundred million dollars.

Be it enacted by the Legislature of West Virginia:

That sections four and six, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article fifteen-a, chapter thirty-one of said code be amended

by adding thereto a new section, designated section seventeen-a, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 24. WASTE TIRE REMEDIATION.

§17-24-4. Division of highways to administer funds for waste tire remediation; rules authorized; duties of commissioner.

1 (a) The division of highways shall administer all funds
2 made available to the division for remediation of waste
3 tire piles and for the proper disposal of waste tires re-
4 moved from waste tire piles. The commissioner of the
5 division of highways may: (i) Propose for legislative
6 promulgation in accordance with article three, chapter
7 twenty-nine-a of this code emergency and legislative rules
8 necessary to implement the provisions of this article; and
9 (ii) administer all funds appropriated by the Legislature to
10 carry out the requirements of this article and any other
11 funds from whatever source, including, but not limited to,
12 federal, state or private grants.

13 (b) The commissioner also has the following powers:

14 (1) To apply and carry out the provisions of this article
15 and the rules promulgated under this article.

16 (2) To investigate, from time to time, the operation and
17 effect of this article and of the rules promulgated under
18 this article and to report his or her findings and recom-
19 mendations to the Legislature and the governor.

20 (c) The provisions of articles two-a and four of this
21 chapter and the policy, rules, practices and procedures
22 under those articles shall be followed by the commissioner
23 in carrying out the purposes of this article.

24 (d) On or before the first day of June, two thousand one,
25 the commissioner shall determine the location, approxi-
26 mate size and potential risk to the public of all waste tire

27 piles in the state and establish, in descending order, a
28 waste tire remediation list.

29 (e) The commissioner may contract with the department
30 of health and human resources and/or the division of
31 corrections to remediate or assist in remediation of waste
32 tire piles throughout the state. Use of available depart-
33 ment of health and human resources and the division of
34 corrections work programs shall be given priority status in
35 the contract process so long as such programs prove a cost-
36 effective method of remediating waste tire piles.

37 (f) Waste tire remediation shall be stopped and the
38 division of environmental protection notified upon the
39 discovery of any potentially hazardous material at a
40 remediation site. The division of environmental protection
41 shall respond to the notification in accordance with the
42 provisions of article eighteen, chapter twenty-two of this
43 code.

44 (g) The commissioner may establish a tire disposal
45 program within the division to provide for a cost effective
46 and efficient method to accept passenger car and light
47 truck waste tires at such division of highways county
48 headquarters as have sufficient space for temporary
49 storage of waste tires and personnel to accept and handle
50 waste tires. The commissioner may pay a fee for each tire
51 an individual West Virginia resident or West Virginia
52 business brings to the division. The commissioner may
53 establish a limit on the number of tires an individual or
54 business may be paid for during any calendar month. The
55 commissioner may in his or her discretion authorize
56 commercial businesses to participate in the collection
57 program: *Provided*, That no person or business who has a
58 waste tire pile subject to remediation under this article
59 may participate in this program.

60 (h) The commissioner may pledge not more than two and
61 one-half million dollars annually of the moneys appropri-
62 ated, deposited or accrued in the A. James Manchin fund

63 created by section six, article twenty-four of this chapter,
64 to the payment of debt service, including the funding of
65 reasonable reserves, on bonds issued by the water develop-
66 ment authority pursuant to section seven-a, article fifteen-
67 a, chapter thirty-one of this code to finance infrastructure
68 projects relating to waste tire processing facilities located
69 in this state: *Provided*, That a waste tire processing facility
70 shall be determined by the solid waste management board,
71 established pursuant to the provisions of article three,
72 chapter twenty-two-c of this code, to meet all applicable
73 federal and state environmental laws and rules and
74 regulations and to aid the state in efforts to promote and
75 encourage recycling and use of constituent component
76 parts of waste tires in an environmentally sound manner:
77 *Provided, however*, That the waste tire processing facility
78 shall have a capital cost of not less than three hundred
79 million dollars, and the council for community and
80 economic development shall determine that the waste tire
81 processing facility is a viable economic development
82 project of benefit to the state's economy.

**§17-24-6. Creation of the A. James Manchin fund; proceeds
from sale of waste tires; fee on issuance of certifi-
cate of title; performance review.**

1 (a) There is hereby created in the state treasury a special
2 revenue fund known as the "A. James Manchin Fund".
3 All moneys appropriated, deposited or accrued in this fund
4 shall be used exclusively for remediation of waste tire piles
5 as required by this article for the tire disposal program
6 established under section four of this article or for the
7 purposes of subsection (h), section four of this article or for
8 the purposes of subsection (c), section five of this article.
9 The fund shall consist of the proceeds from the sale of
10 waste tires; fees collected by the division of motor vehicles
11 as provided for in section sixteen, article ten, chapter
12 seventeen-a of this code; any federal, state or private
13 grants; legislative appropriations; loans; and any other
14 funding source available for waste tire remediation. Any

15 balance remaining in the fund at the end of any state fiscal
16 year shall not revert to the state treasury, but shall remain
17 in this fund and be used only in a manner consistent with
18 the requirements of this article.

19 (b) No further collections or deposits shall be made after
20 the commissioner certifies to the governor and the Legisla-
21 ture that the remediation of all waste tire piles that were
22 determined by the commissioner to exist on the first day of
23 June, two thousand one, has been completed and that all
24 infrastructure bonds issued by the water development
25 authority pursuant to section seventeen-a, article fifteen-a
26 of chapter thirty-one of this code have been paid in full or
27 legally defeased.

28 (c) The joint committee on government operations shall,
29 pursuant to authority granted in article ten, chapter four
30 of this code, conduct a preliminary performance review of
31 the division's compliance with the waste tire remediation
32 mandated in this article; whether the purposes of this
33 article have been met; and whether it is appropriate to
34 terminate this program. In conducting such preliminary
35 performance review, the committee shall follow the
36 guidelines established in this article. A preliminary review
37 shall be completed on or before the first day of January,
38 two thousand four.

CHAPTER 31. CORPORATION.

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

§31-15A-17a. Infrastructure revenue bonds payable from A. James Manchin fund.

1 Notwithstanding any other provision of this code to the
2 contrary, the water development authority may issue, in
3 accordance with the provisions of section seventeen of this
4 article, infrastructure revenue bonds payable from the A.
5 James Manchin fund created by section six, article twenty-
6 four, chapter seventeen of this code and such other sources

7 as may be legally pledged for such purposes other than the
8 West Virginia infrastructure revenue debt service fund
9 created by section seventeen of this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly Murr
.....
Chairman Senate Committee

Greg Butcher
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Daniel Mahan
.....
Clerk of the Senate

Betsy M. Day
.....
Clerk of the House of Delegates

Carl Ray Tomble
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within is approved this the 2nd
Day of April, 2003.
Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/03

Time 9:40 am