

# WEST VIRGINIA CODE: §22-16-12

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

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

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

(c) The fund consists of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in the fund, including moneys collected and deposited into the fund pursuant to §22-16-4 of this code;

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

(3) Amounts repaid by permittees pursuant to §22-15-18 of this code; and

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

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

(e) The amounts deposited in the fund may be expended only on the cost of projects as provided in §22-16-3 and §22-16-15 of this code, as provided in subsection (f) of this section, and for payment of bonds and notes issued pursuant to §22-16-5 of this code. No more than two percent of the annual deposits to the fund may be used for administrative purposes.

(f) Notwithstanding any provision of this article, upon request of the Solid Waste Management Board, and with the approval of the projects by the Secretary of the Department of Environmental Protection, the secretary may pledge and place into escrow accounts up to an aggregate of \$2 million of the fund to satisfy two years debt service requirement that permittees of publicly owned landfills and transfer stations are required to meet in order to obtain loans. Pledges shall be made on a project-by-project basis, may not exceed \$500,000 for a project, and are made available after loan commitments are received. The secretary may pledge funds for a loan only when the following conditions are met:

(1) The proceeds of the loan are used only to perform construction of a transfer station or a composite liner system that is required to meet Title 47, Series 38, Solid Waste Management Rules;

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

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

(g) Notwithstanding any provision of this code to the contrary, the Elkins-Randolph County Landfill, located in Randolph County, and the Webster County Landfill, located in Webster County, are eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete their closure upon the filing of appropriate application. Upon the filing of an appropriate application, the Department of Environmental Protection shall work with the applicant to ensure the application meets the department's requirements.

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

(i) The Prichard Landfill in Wayne County is eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete post-closure maintenance and monitoring upon the filing of an appropriate application. In the event of a permit transfer, neither the state nor the Wayne County Economic Development Authority or entity may assume any liability from the private landfill other than post-closure maintenance and monitoring costs.

(j)(1) Notwithstanding any other provision of this code, upon completion of the landfill closure-related services at all eligible landfills pursuant to §22-16-3 of this code, the secretary may transfer excess money from the Solid Waste Facility Closure Cost Assistance Fund to the Reclamation of Abandoned and Dilapidated Properties Program Fund created by §22-15A-30 of this code. However, the secretary may not transfer moneys from the Solid Waste Facility Closure Cost Assistance Fund that are required to be maintained so that the

department can conduct post-closure activities authorized by this article and the legislative rules promulgated thereunder. The department shall maintain in the Solid Waste Facility Closure Cost Assistance Fund a minimum balance of twice the total cost of post-closure expenses projected for the fiscal year as a buffer for unanticipated necessary post-closure activities.

(2) Contingent upon the Department of Environmental Protection securing private foundation funding to establish the Reclamation of Abandoned and Dilapidated Properties Program, and prior to the completion of the landfill closure-related services at all eligible landfills, the secretary may expend money from the Solid Waste Facility Closure Cost Assistance Fund for pilot projects conducted by the Department of Environmental Protection demonstrating the function of the Reclamation of Abandoned and Dilapidated Properties Program.