WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

HOUSE BILL No. 1996

(By Mr. Del. Smith & Del. Casey)

Passed April 13, 1985

In Effect From Passage
ENROLLED

H. B. 1996

(By Delegate Smith and Delegate Casey)

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-one, relating generally to the issuance of private activity industrial development and commercial development bonds generally, the state-wide ceiling applicable thereto; the allocation of such ceiling to the state and the several counties thereof; the manner of apportioning such allocation among the several counties; providing for the reservation of funds on a first come, first serve basis and certain procedures relating thereto; placing a time limit on all such reservations and the expiration and forfeiture of such funds so reserved; exceptions to such expirations and forfeitures in certain cases; the carry over of certain reservations as to qualified projects from one year to another; and the reverting of funds from the county allocation to the state allocation of unreserved funds after the first day of October in each year.

Be it enacted by the Legislature of West Virginia:

That article two-c, chapter thirteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-one, to read as follows:
ARTICLE 2C. INDUSTRIAL DEVELOPMENT AND COMMERCIAL DEVELOPMENT BOND ACT.

§13-2C-21. Ceiling on issuance of private activity bonds; establishing procedure for allocation and disbursements; reservation of funds; limitations; unused allocation; expirations and carry overs.

(a) Private activity bonds (as defined in section 103(n) of the United States Internal Revenue Code of 1954, as amended), issued pursuant to this article during any calendar year shall not exceed the ceiling established by section 103(n) of the United States Internal Revenue Code of 1954, as amended, by the Deficit Reduction Act of 1984, as amended, for each year.

(b) On or before the first day of each calendar year, the director of the governor's office of economic and community development shall determine the state ceiling for such year based on the criteria of the deficit reduction act, which annual ceiling shall be allocated among the several issuers of bonds under this article as follows:

(1) One half the total ceiling for each year shall be allocated to the counties on a per capita basis and, unless the context in which used requires otherwise, shall be hereinafter in this section referred to as the “county allocation.”

(2) One half of the total ceiling shall be retained by the state of West Virginia by the governor's office of economic and community development and, unless the context in which used requires otherwise, shall be hereinafter in this section referred to as the “state allocation.”

(c) The director of the governor's office of economic and community development shall notify each clerk of the county commission of that county's apportionment from the county allocation. All apportionments made to any county from the county allocation shall be for issues of the county commission of that county and for issues of all municipalities within that county.

(d) Distribution of both the county and state allocations to lessees, purchasers or owners of proposed commercial or industrial projects shall be on a first come, first serve basis and shall not be distributed or allocated for any project until...
the governmental body seeking the same shall submit an
application for reservation of funds as provided in subsection
(e) of this section. The governmental body must first adopt
an inducement resolution approving the prospective issuance
of bonds and setting forth the amount of bonds to be issued.
Within ten days of the inducement resolution, each govern-
mental body must submit a notice of inducement signed by
its clerk or recorder to the governor's office of economic and
community development. Such notice shall include such
information as may be required by the governor's office of
economic and community development by rule or regulation.

(e) Following the submission of its notice of inducement,
the governmental body at any time deemed expedient by it
may submit its notice of reservation of funds which shall
include the following information:

(1) The date of the notice of reservation of funds;

(2) The identity of the governmental body issuing the bonds;

(3) The date of inducement and the prospective date of
issuance;

(4) The name of the entity for which the bonds are to be
issued;

(5) The amount of the bond issue;

(6) The type of issue; and

(7) A description of the project for which the bonds are to
be issued.

(f) (1) Upon receipt of the notice of reservation of funds by
the governor's office of economic and community develop-
ment, such office shall immediately note upon the face of such
notice the date and time the same was so received and shall
within ten days certify to the governmental body submitting
the same (A) that the statewide ceiling has not been exceeded,
if such be the case, and (B) that the amount of the bond issue
has been allocated and reserved in the name of such
governmental body for the project for which the bonds are to
be issued and, thereafter, the amount of such bond issue shall
be so allocated and reserved.

(2) In the event the amount requested in the notification of
reservation of funds, as provided for in subdivision (1) of this subsection, exceeds the apportionment available to that county from the county allocation, the governor's office of economic and community development shall immediately notify the governmental body proposing to issue such bonds of that fact and such body may apply to such office for an apportionment to the extent of such excess from the state allocation.

(g) If the bond issue for which a reservation has been made has not been finally closed within one hundred twenty days of the date of the certification of reservation to be made by the governor's office of economic and community development, as required by the provisions of subsection (f) of this section, and a statement of bond closure which has been executed by the clerk or recorder of the governmental body reserving the same has not been received by such office within that time, then such reservation shall expire and be deemed to have been forfeited and the funds so reserved shall revert to the county and/or state allocation, as the case may be, from which the funds were originally reserved: Provided, That, as to any notice of reservation of funds received by the governor's office of economic and community development during the month of December in any calendar year with respect to any project qualifying as an elective carry forward pursuant to section 1.103(n)-4T of the rules and regulations of the internal revenue service of the United States department of the treasury, as published in the Federal Registry on the fifth day of October, one thousand nine hundred eighty-four, such reservation of funds and the allocation to which the same relates shall not expire or be subject to forfeiture.

(h) Any amount of the county allocation remaining unreserved on the first day of October in any calendar year (which amount shall be determined by the director of the governor's office of economic and community development) shall revert to the state allocation for the remainder of that year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Darrell E. Holmes
ChairmanSenate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect from passage.

Joel C. Well
Clerk of the Senate

Donald L. Vipond
Clerk of the House of Delegates

Dan Tordain
President of the Senate

Joseph P. Blankenship
Speaker of the House of Delegates

The within approved this the ______ day of May, 1985.

Governor
PRESENTED TO THE
GOVERNOR

Date 4/3/55
Time 2:47 p.m.