

No. 1996

RECEIVED

1985 MAY -3 AM 10:42

OFFICE OF THE CLERK  
SECRETARY OF STATE

# 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.**

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

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

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

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

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

30 (d) Distribution of both the county and state allocations to  
31 lessees, purchasers or owners of proposed commercial or  
32 industrial projects shall be on a first come, first serve basis  
33 and shall not be distributed or allocated for any project until

34 the governmental body seeking the same shall submit an  
35 application for reservation of funds as provided in subsection  
36 (e) of this section. The governmental body must first adopt  
37 an inducement resolution approving the prospective issuance  
38 of bonds and setting forth the amount of bonds to be issued.  
39 Within ten days of the inducement resolution, each govern-  
40 mental body must submit a notice of inducement signed by  
41 its clerk or recorder to the governor's office of economic and  
42 community development. Such notice shall include such  
43 information as may be required by the governor's office of  
44 economic and community development by rule or regulation.

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

- 49 (1) The date of the notice of reservation of funds;
- 50 (2) The identity of the governmental body issuing the bonds;
- 51 (3) The date of inducement and the prospective date of  
52 issuance;
- 53 (4) The name of the entity for which the bonds are to be  
54 issued;
- 55 (5) The amount of the bond issue;
- 56 (6) The type of issue; and
- 57 (7) A description of the project for which the bonds are to  
58 be issued.

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

- 70 (2) In the event the amount requested in the notification of

71 reservation of funds, as provided for in subdivision (1) of this  
72 subsection, exceeds the apportionment available to that county  
73 from the county allocation, the governor's office of economic  
74 and community development shall immediately notify the  
75 governmental body proposing to issue such bonds of that fact  
76 and such body may apply to such office for an apportionment  
77 to the extent of such excess from the state allocation.

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

100 (h) Any amount of the county allocation remaining  
101 unreserved on the first day of October in any calendar year  
102 (which amount shall be determined by the director of the  
103 governor's office of economic and community development)  
104 shall revert to the state allocation for the remainder of that  
105 year.

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

*Darrell E. Holmes*

*Chairman Senate Committee*

*Floyd Fuller*

*Chairman House Committee*

Originating in the House.

Takes effect from passage.

*Irwin C. Miles*

*Clerk of the Senate*

*Donald R. Hoop*

*Clerk of the House of Delegates*

*Dan Tomlin*

*President of the Senate*

*Joseph P. Albritton*

*Speaker of the House of Delegates*

The within *approved* this the *2<sup>nd</sup>*  
day of *May*, 1985.

*Arch A. Moore*

*Governor*



PRESENTED TO THE  
GOVERNOR

Date 4/25/55

Time 2:47 p.m.