

No. 1996

RECEIVED

1985 MAY -3 AM 12.42

OFFICE OF THE
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.

Irvin C. White

 Clerk of the Senate

Donald L. Hogg

 Clerk of the House of Delegates

Dan Tonkovich

 President of the Senate

Joseph P. Albright

 Speaker of the House of Delegates

The within *approved* this the *2nd*
May
 day of _____, 1985.

Archibald

 Governor

PRESENTED TO THE
GOVERNOR

Date 4/25/85

Time 2:47 p.m.