WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1995

ENROLLED

SENATE BILL NO. 313

(By Senator Wooten)

PASSED MARCH 4, 1995
In Effect From Passage
AN ACT to amend and reenact sections ten and twelve, article sixteen, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to environmental resources; solid waste landfill closure assistance program; providing when a permittee that is a municipality, county, county solid waste authority or regional solid waste authority is ineligible for closure assistance funds; increasing the limit on the percentage of the closure assistance fund that may be used for administrative purposes from one percent to two percent; providing for closure extension; and providing for reporting requirements.

Be it enacted by the Legislature of West Virginia:

That sections ten and twelve, article sixteen, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-10. Limitation on assistance.

The director may provide closure assistance only to permittees who meet the following requirements:

1. The permittee of a landfill that does not have a liner and ceases accepting solid waste on or before the thirtieth day of November, one thousand nine hundred ninety-one, except for those landfills allowed to accept solid waste pursuant to the provisions of section seventeen, article fifteen of this chapter and ceases accepting solid waste on or before the extension deadline as determined by the director; or the permittee of a landfill that has only a single liner and ceases accepting solid waste on or before the thirtieth day of September, one thousand nine hundred ninety-three;

2. The permittee of the landfill must demonstrate to the satisfaction of the director that it does not have the financial resources on hand or the ability to generate the amounts needed to comply, in a timely manner, with the closure requirements provided in article fifteen of this chapter and any rules promulgated pursuant thereto:

Provided, That any permittee required to close a landfill, or any portion thereof, due to the lack of an approved composite liner system, who collects solid waste within this state which is disposed outside this state, shall not be eligible for closure assistance: Provided, however, That any permittee which is a Class I municipality shall be eligible for closure assistance when the permittee elects to and pays the solid waste assessment fee which would otherwise be levied and imposed upon the disposal of the solid waste by subsection (a), section four of this article, if the solid waste was disposed of within the state; and

3. The permittee must maintain a permit for the landfill pursuant to the provisions of section ten, article fifteen of this chapter and maintain the full amount of the bond required to be submitted pursuant to section
§22-16-12. Solid waste facility closure cost assistance fund; closure extension; reporting requirements.

(a) The "closure cost assistance fund" is continued as a special revenue account in the state treasury. The fund shall operate as a special fund whereby all deposits and payments thereto do not expire to the general revenue fund, but shall remain in such account and be 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 section four of this article;

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

(3) Amounts repaid by permittees pursuant to section eighteen, article fifteen of this chapter; 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 director, has the authority to pledge all or such part of the revenues paid into the closure cost assistance fund as may be 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 such 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 such revenue bond issue or issues when other moneys pledged may be insufficient therefor. Any pledge of moneys in the closure cost assistance fund for revenue bonds shall be a prior and superior charge on such fund over the use of any of the moneys in such 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 the provisions of this article.

(e) The amounts deposited in the fund may be expended only on the cost of projects as provided for in sections three and fifteen of this article, as provided in subsection (f) of this section and for payment of bonds and notes issued pursuant to section five of this article: Provided, That no more than two percent of the annual deposits to such 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 director of the division of environmental protection, the director may pledge and place into escrow accounts up to an aggregate of two million dollars 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 five hundred thousand dollars for a project and shall be made available after loan commitments are received. The director 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 the provisions of title forty-seven, series thirty-eight, 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) Any landfills which were ordered to close by the thirty-first day of December, one thousand nine hundred ninety-four, and which have been granted a certificate of need pursuant to the provisions of subsection (b), section one-c, article two, chapter twenty-four of this code or section one-i of said article are hereby granted a closure extension until the first day of January, one thousand nine hundred ninety-six: Provided, That no landfill which closed on or before the thirtieth day of September, one thousand nine hundred ninety-four, shall be eligible for such an extension.

(h) The department of environmental protection is required to file, by the first day of January of each ensuing 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.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Enr. S. B. No. 313] 6

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

Chairman Senate Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

The within bill approved this the 23rd day of March, 1995.

Governor