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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

SENATE BILL NO. 313

(By Senators Wooten & Louie)



PASSED MARCH 16 1995

In Effect FROM Passage

ENROLLED
Senate Bill No. 313

(BY SENATORS WOOTON AND LOVE)

[Passed March 11, 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.**

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

3 (1) The permittee of a landfill that does not have a liner
4 and ceases accepting solid waste on or before the thirti-
5 eth day of November, one thousand nine hundred
6 ninety-one, except for those landfills allowed to accept
7 solid waste pursuant to the provisions of section seven-
8 teen, article fifteen of this chapter and ceases accepting
9 solid waste on or before the extension deadline as
10 determined by the director; or the permittee of a landfill
11 that has only a single liner and ceases accepting solid
12 waste on or before the thirtieth day of September, one
13 thousand nine hundred ninety-three;

14 (2) The permittee of the landfill must demonstrate to
15 the satisfaction of the director that it does not have the
16 financial resources on hand or the ability to generate the
17 amounts needed to comply, in a timely manner, with the
18 closure requirements provided in article fifteen of this
19 chapter and any rules promulgated pursuant thereto:
20 *Provided*, That any permittee required to close a landfill,
21 or any portion thereof, due to the lack of an approved
22 composite liner system, who collects solid waste within
23 this state which is disposed outside this state, shall not
24 be eligible for closure assistance: *Provided, however*,
25 That any permittee which is a Class I municipality shall
26 be eligible for closure assistance when the permittee
27 elects to and pays the solid waste assessment fee which
28 would otherwise be levied and imposed upon the dis-
29 posal of the solid waste by subsection (a), section four of
30 this article, if the solid waste was disposed of within the
31 state; and

32 (3) The permittee must maintain a permit for the
33 landfill pursuant to the provisions of section ten, article
34 fifteen of this chapter and maintain the full amount of
35 the bond required to be submitted pursuant to section

36 twelve of said article.

**§22-16-12. Solid waste facility closure cost assistance fund;
closure extension; reporting requirements.**

1 (a) The "closure cost assistance fund" is continued as
2 a special revenue account in the state treasury. The fund
3 shall operate as a special fund whereby all deposits and
4 payments thereto do not expire to the general revenue
5 fund, but shall remain in such account and be available
6 for expenditure in the succeeding fiscal year. Separate
7 subaccounts may be established within the special
8 account for the purpose of identification of various
9 revenue resources and payment of specific obligations.

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

12 (c) The fund consists of the following:

13 (1) Moneys collected and deposited in the state trea-
14 sury which are specifically designated by acts of the
15 Legislature for inclusion in the fund, including moneys
16 collected and deposited into the fund pursuant to section
17 four of this article;

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

21 (3) Amounts repaid by permittees pursuant to section
22 eighteen, article fifteen of this chapter; and

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

25 (d) The solid waste management board, upon written
26 approval of the director, has the authority to pledge all
27 or such part of the revenues paid into the closure cost
28 assistance fund as may be needed to meet the require-
29 ments of any revenue bond issue or issues of the solid
30 waste management board authorized by this article,
31 including the payment of principal of, interest and
32 redemption premium, if any, on such revenue bonds and

33 the establishing and maintaining of a reserve fund or
34 funds for the payment of the principal of, interest and
35 redemption premium, if any, on such revenue bond issue
36 or issues when other moneys pledged may be insufficient
37 therefor. Any pledge of moneys in the closure cost
38 assistance fund for revenue bonds shall be a prior and
39 superior charge on such fund over the use of any of the
40 moneys in such fund to pay for the cost of any project on
41 a cash basis. Expenditures from the fund, other than for
42 the retirement of revenue bonds, may only be made in
43 accordance with the provisions of this article.

44 (e) The amounts deposited in the fund may be ex-
45 pended only on the cost of projects as provided for in
46 sections three and fifteen of this article, as provided in
47 subsection (f) of this section and for payment of bonds
48 and notes issued pursuant to section five of this article:
49 *Provided*, That no more than two percent of the annual
50 deposits to such fund may be used for administrative
51 purposes.

52 (f) Notwithstanding any provision of this article, upon
53 request of the solid waste management board, and with
54 the approval of the projects by the director of the
55 division of environmental protection, the director may
56 pledge and place into escrow accounts up to an aggregate
57 of two million dollars of the fund to satisfy two years
58 debt service requirement that permittees of publicly-
59 owned landfills and transfer stations are required to
60 meet in order to obtain loans. Pledges shall be made on
61 a project-by-project basis, may not exceed five hundred
62 thousand dollars for a project and shall be made avail-
63 able after loan commitments are received. The director
64 may pledge funds for a loan only when the following
65 conditions are met:

66 (1) The proceeds of the loan are used only to perform
67 construction of a transfer station or a composite liner
68 system that is required to meet the provisions of title
69 forty-seven, series thirty-eight, solid waste management
70 rules;

71 (2) The permittee dedicates all yearly debt service
72 revenue, as determined by the public service commission,
73 to meet the repayment schedule of the loan, before it
74 uses available revenue for any other purpose; and

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

77 (g) Any landfills which were ordered to close by the
78 thirty-first day of December, one thousand nine hundred
79 ninety-four, and which have been granted a certificate of
80 need pursuant to the provisions of subsection (b), section
81 one-c, article two, chapter twenty-four of this code or
82 section one-i of said article are hereby granted a closure
83 extension until the first day of January, one thousand
84 nine hundred ninety-six: *Provided*, That no landfill
85 which closed on or before the thirtieth day of September,
86 one thousand nine hundred ninety-four, shall be eligible
87 for such an extension.

88 (h) The department of environmental protection is
89 required to file, by the first day of January of each
90 ensuing year, an annual report with the joint committee
91 on government and finance providing details on the
92 manner in which the landfill closure assistance funds
93 were expended for the prior fiscal year.

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

Randy Schooner
.....
Chairman Senate Committee

Ernest C Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Carroll Phelps
.....
Clerk of the Senate

Donald L. Kuff
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

Paul Oliver
.....
Speaker House of Delegates

The within is approved..... this the *23rd*.....

day of *March*....., 1995.

Gaston Capner
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/22/95

Time

4:47 pm