

SB 94

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



ENROLLED

SENATE BILL NO. 96

(By Senator OLIVERIO, ET AL)



PASSED MARCH 13, 1998

In Effect NINETY Days From Passage

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SENATE OF WEST VIRGINIA

ENROLLED

Senate Bill No. 96

(BY SENATORS OLIVERIO, TOMBLIN, MR. PRESIDENT, CRAIGO,
BUCKALEW, KESSLER, MINEAR, SPROUSE, KIMBLE, BALL, ROSS,
DITTMAR, ANDERSON, SHARPE, WALKER, DUGAN, LOVE,
MCKENZIE, SCHOONOVER AND HUNTER)

[Passed March 13, 1998; in effect ninety days from passage.]

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-three, relating to creating a revolving low-interest environmental loan program for small businesses; establishing eligibility, qualifications, requirements, conditions, terms and processing procedures; providing program funding; and setting forth legislative findings and intent.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-three, to read as follows:

ARTICLE 23. SMALL BUSINESS ENVIRONMENTAL LOAN PROGRAM.**§22-23-1. Legislative findings, intent and purpose.**

1 The Legislature hereby finds and declares that, in this
2 state the protection and improvement of the environment,
3 and the sustainability of small businesses, would be
4 collectively enhanced by the establishment of a revolving
5 low-interest small business environmental loan program,
6 to provide partial relief from the burden small businesses
7 face from compliance with existing and new state and
8 federal environmental protection rules and regulations.
9 The Legislature intends, in providing such a loan program
10 for small businesses, that the program will further enable
11 small businesses to aggressively comply with or exceed
12 environmental obligations and requirements and thereby
13 continue as a positive economic force in the state of West
14 Virginia.

§22-23-2. Definitions.

1 As used in this article, the following words have the
2 meanings ascribed to them.

3 (a) "Authority" means the West Virginia economic
4 development authority established in article fifteen,
5 chapter thirty-one of this code.

6 (b) "Director" means the director of the West Virginia
7 division of environmental protection.

8 (c) "Division" means the West Virginia division of
9 environmental protection as established in article one of
10 this chapter.

11 (d) "Eligible borrower" means a small business as
12 defined in subsection (g) of this section that:

13 Is required or needs to conduct a qualifying environ-
14 mental project as defined in subsection (f) of this section.

15 An eligible borrower also means a small business that
16 desires to refinance the remaining balance of a debt that

17 was incurred between the first day of January, one
18 thousand nine hundred ninety-two, and the effective date
19 of this article, and that meets, or would have met, at the
20 time of the original loan application, the requirements of
21 this subsection. The refinancing option is not available
22 for applications received by the authority more than two
23 years after the effective date of this article. Funds avail-
24 able for refinanced loans may not, at any time, exceed
25 forty percent of the total funds available plus the out-
26 standing balance of funded loans.

27 (e) "Environmental project" means:

28 (1) Any environmental equipment purchases and instal-
29 lations thereof;

30 (2) Any associated transportation, technical or consult-
31 ing services for installation or modification of environ-
32 mental equipment;

33 (3) Any equipment, purchase and installation necessary
34 to effect a process change that in the director's judgment
35 yields significant environmental benefits; or

36 (4) Any combination of subdivision (1), (2) or (3) of this
37 subsection.

38 (f) "Qualifying environmental project" means an envi-
39 ronmental project as described in subsection (e) of this
40 section that is to be undertaken at a location in West
41 Virginia and used for the purpose of:

42 (1) Effecting pollution elimination, minimization,
43 prevention, recycling or abatement measures;

44 (2) Improving conditions or operations environmentally
45 or substantially improving compliance with local, city,
46 state, interstate or federal rules, regulations or laws
47 pertaining to the environment and human health; or

48 (3) Purchasing equipment to establish environmental
49 information, computing, consulting or laboratory services.

50 (g) "Small business" means a business that:

51 (1) Is properly registered with the appropriate agencies
52 to do business in this state;

53 (2) Is actively conducting business in this state;

54 (3) Is current with all workers' compensation and
55 unemployment premiums and state taxes; and

56 (4) Employs less than fifty full-time employees as
57 defined in subsection (h) of this section within the entire
58 company, business or corporation inside and outside this
59 state.

60 (h) "Total number of full-time employees" means all full-
61 time employees, plus all part-time employees counted as
62 full-time employee equivalents, plus all full and part-time
63 equivalent employees providing any type of service by
64 contract or by any other arrangement.

§22-23-3. Loan application requirements.

1 (a) Any eligible small business may apply for a small
2 business environmental loan by submitting two identical
3 copies of an application to the authority, on forms pro-
4 vided by the authority.

5 (b) The director shall determine environmental program
6 qualification as provided by section two of this article,
7 and based on the following factors:

8 (1) Pertinent environmental benefits of the project,
9 including expected eliminations or reductions of regulated
10 pollutants, solid wastes, hazardous wastes and in the use
11 of toxic and hazardous chemicals, as well as expected
12 benefits from recycling programs, and pollution preven-
13 tion measures;

14 (2) The degree of compliance with applicable environ-
15 mental rules, regulations, laws and statutes; and

16 (3) Borrower's past environmental compliance perfor-
17 mance, including history of compliance, violations,

18 permitting difficulties and reporting record.

§22-23-4. Loan conditions.

1 A loan made to an eligible borrower as provided by this
2 article shall:

3 (a) Have an interest rate not to exceed one half of the
4 federal prime interest rate, but in no case may the annual
5 rate be less than four percent;

6 (b) Have repayment terms not to exceed ten years;

7 (c) Have collateral terms acceptable to the authority;
8 and

9 (d) Be in an amount of not less than five thousand
10 dollars nor more than one hundred fifty thousand dollars;
11 but in no case may the amount exceed ninety percent of
12 the cost of the project.

§22-23-5. Small business environmental revolving loan account.

1 The small business environmental revolving loan
2 account is hereby established in the authority and will be
3 made available for environmental loans defined by this
4 article for any type of qualifying environmental project.
5 Loans may be issued only during the five-year period
6 commencing on the effective date of this article unless the
7 time period is otherwise extended by the Legislature. The
8 administration of this loan program is authorized for one
9 year beyond the last payment date for any outstanding
10 loan.

11 The environmental revolving loan account shall be
12 funded by appropriations from the Legislature and, at the
13 director's discretion, by using portions of penalties and
14 fines that are collected from various sources, including
15 violators that economically benefited by noncompliance:
16 *Provided*, That the maximum value of all active outstand-
17 ing loans, combined with funds in reserve at any time,
18 may not exceed five million dollars.

19 Interest income from the small business environmental
20 loan program as well as appropriations from the Legisla-
21 ture shall be used to defray the operating costs of the
22 program, including, but not limited to, administration,
23 facilities, salaries and travel. Any excess interest income
24 shall be used to reestablish the loan program to its maxi-
25 mum authorized limit of five million dollars, with addi-
26 tional excesses returned to the state's general revenue
27 account. If interest income is not projected to provide the
28 necessary operating funds for all aspects of the small
29 business environmental loan program for any one year, the
30 authority shall request the necessary funding in the
31 annual budget request.

§22-23-6. Loan processing.

1 The authority shall: (a) Process small business environ-
2 mental loan applications and assure that a copy is for-
3 warded to the director for eligibility review; (b) confirm
4 that the director has certified the environmental accept-
5 ability of the project; (c) verify the borrower's eligibility
6 as provided by section two of this article; (d) evaluate the
7 borrower's financial stability, needs and ability to repay
8 based upon an appropriate examination of financial
9 information, including, but not limited to, income and
10 credit histories, income tax returns, financial statements
11 and collateral offered to secure the loan; (e) process loans
12 for payments; and (f) establish loan processing procedures
13 that include, but are not limited to, loan approvals,
14 accounting, authorizations for payments, loan repayments
15 and auditing of the small business environmental loan
16 program. The authority shall implement reporting
17 requirements that include the total number of full-time
18 employees of the loan recipient on the thirtieth day of
19 September of each calendar year for the term of the loan.

20 The authority shall act upon loan requests within
21 forty-five days of receipt of a complete application as
22 determined by the authority.

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

Randy Spoonover
.....
Chairman Senate Committee.

Neil Trantano
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Bales
.....
Clerk of the Senate

Bryan W. Sims
.....
Clerk of the House of Delegates

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

Tim
.....
Speaker House of Delegates

The within *approved* this the *6th*
April
day of, 1998.

J. B. Keener
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/24/98

Time 3:05 pm