WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED

SENATE BILL NO. 549

(By Senator OLIVERIO, ET AL.)

PASSED

March 12, 1999

In Effect 90 days from Passage
ENROLLED

COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 549

(SENATORS OLIVERIO, MCKENZIE, MINEAR,
UNGER, HUNTER AND SPROUSE, original sponsors)

[Passed March 12, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, four and five,
article twenty-four, chapter twenty-two of the code of West
Virginia, one thousand nine hundred thirty-one, as amended,
all relating to the small business environmental loan pro-
gram; providing a definition of pollution prevention; provid-
ing loan conditions for projects that are at a minimum
seventy-five percent pollution prevention; and authorizing
the director to accept gifts, donations and contributions for
the revolving loan account.
Be it enacted by the Legislature of West Virginia:

That sections two, four and five, article twenty-four, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 24. SMALL BUSINESS ENVIRONMENTAL LOAN PROGRAM.


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

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

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

(d) "Eligible borrower" means a small business as defined in subsection (g) of this section that is required or needs to conduct a qualifying environmental project as defined in subsection (f) of this section. An eligible borrower also means a small business that desires to refinance the remaining balance of a debt that was incurred between the first day of January, one thousand nine hundred ninety-two, and until two years after the effective date of this article, and that meets, or would have met, at the time of the original loan application, the requirements of this subsection. The refinancing option is not available for applications received by the authority more than three years after the effective date of this article. Funds available for refinanced loans may not, at any time, exceed forty percent of the total funds available plus the outstanding balance of funded loans.

(e) "Environmental project" means:

(1) Any environmental equipment purchases and installations of the equipment;
(2) Any associated transportation, technical or consulting services for installation or modification of environmental equipment;

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

(4) Any combination of subdivisions (1), (2) or (3) of this subsection.

(f) "Pollution prevention" means the reduction or elimination of pollutants at the source through process modification, material substitution, in-process recycling, reduction of raw material use or other source reduction or elimination opportunities.

(g) "Qualifying environmental project" means an environmental project as described in subsection (e) of this section that is to be undertaken at a location in West Virginia and used for the purpose of:

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

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

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

(h) "Small business" means a business that:

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

(2) Is actively conducting business in this state;

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

(4) Employs less than fifty full-time employees as defined in subsection (i) of this section within the entire company, business or corporation inside and outside this state.
(i) "Total number of full-time employees" means all full-time employees, plus all part-time employees counted as full-time employee equivalents, plus all full and part-time equivalent employees providing any type of service by contract or by any other arrangement.

§22-24-4. Loan conditions.

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

(a) Have an interest rate not to exceed one half of the federal prime interest rate, but in no case may the annual rate be less than four percent: Provided, That environmental projects that have been determined by the director to be at a minimum, seventy five percent "pollution prevention", shall be authorized an additional one half of one percent annual interest rate reduction and the annual interest for these special pollution prevention qualifying environmental projects may be as low as three and one-half percent;

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

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

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

§22-24-5. Small business environmental revolving loan account.

(a) The small business environmental revolving loan account is hereby continued in the authority and shall be made available for environmental loans defined by this article for any type of qualifying environmental project. Loans may be issued only during the five-year period commencing on the effective date of this article unless the time period is otherwise extended by the Legislature. The administration of this loan program is authorized for one year beyond the last payment date for any outstanding loan.

(b) The environmental revolving loan account shall be funded by appropriations from the Legislature and, at the
director's discretion, by using portions of penalties and fines that are collected from various sources, including violators that economically benefited by noncompliance and the director is also authorized to accept gifts, donations, bequests or devises of money, security or property for deposit in the account: Provided, That the maximum value of all active outstanding loans, combined with funds in reserve at any time, may not exceed five million dollars.

(c) Interest income from the small business environmental loan program as well as appropriations from the Legislature shall be used to defray the operating costs of the program, including, but not limited to, administration, facilities, salaries and travel. Any excess interest income shall be used to reestablish the loan program to its maximum authorized limit of five million dollars, with additional excesses returned to the state's general revenue account. If interest income is not projected to provide the necessary operating funds for all aspects of the small business environmental loan program for any one year, the authority shall request the necessary funding in the annual budget request.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within............ approved............. this the ....th.. Day of .................., 1995

Governor