WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2000

ENROLLED

COMMITTEE SUBSTITUTE FOR
House Bill No. 4380

(By Delegates Michael, Williams, Stemple, Kelley, Mezzatesta, Martin and Proudfoot)

Passed March 10, 2000

In Effect Ninety Days from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4380

(BY DELEGATES MICHAEL, WILLIAMS, STEMPEL, KELLEY, MEZZATESTA, MARTIN AND PROUDFOOT)

[Passed March 10, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and three, article thirteen-k, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section seven, article eleven, chapter twenty of said code, all relating to promoting the alternative use of poultry waste; including nutrient management plans and best management practices, when used as certain established procedures for managing applications of certain poultry litter as fertilizer applications, within the definition of qualified agricultural equipment for which an investment tax credit is allowed; establishment of amount of credit upon certification of commissioner of agriculture; and establishing the use of certain composted or deep stacked poultry litter products produced and packaged in this State as having priority over the use of other compost by agencies and instrumentalities of the state in land maintenance and
landscaping activities unless determined to be economically unfeasible by the agency or instrumentality.

Be it enacted by the Legislature of West Virginia:

That sections two and three, article thirteen-k, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section seven, article eleven, chapter twenty of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 13K. TAX CREDIT FOR AGRICULTURAL EQUIPMENT.


1 As used in this section the following terms have the meanings ascribed in this section:

3 (a) “Advanced technology pesticide and fertilizer application equipment” means machinery certified by the West Virginia division of environmental protection as providing precise pesticide and fertilizer application. The agriculture commission and the West Virginia division of environmental protection shall provide technical assistance to the tax commissioner to determine appropriate specifications for machinery which would provide for more precise pesticide and fertilizer application to reduce the potential for adverse environmental impacts for purposes of application of the credit provided by this article. The machinery shall include, but not be limited to:

14 (1) Sprayers for pesticides and liquid fertilizers;

15 (2) Pneumatic fertilizer applicators;

16 (3) Monitors, computer regulators and heights adjustable booms for sprayers and liquid fertilizer applicators;
(4) Manure applicators; and

(5) Tramline adapters.

(b) “Conservation tillage equipment” means a planter or drill commonly known as a “no-till” planter or drill, designed to minimize disturbance of the soil in planting crops, including such planters or drills which may be attached to equipment already owned by the taxpayer.

c) “Dead poultry composting facility” is a structure consisting of a roof, an impervious weight bearing foundation, such as concrete and rot resistant building materials such as pressure treated lumber or similar material, which is used to biologically treat poultry carcasses by composting.

d) “Mortality incinerator” means a structure certified by the director of the division of environmental protection which is used for the purpose of burning animal carcasses.

e) “Nutrient management plan” or “best management practice” means an established procedure for managing the amount, form, placement and timing of applications of poultry litter, certified by the commissioner of agriculture as being free from organisms that are not found in poultry litter produced in this state, as fertilizer application.

(f) “Nutrient management system” means an established procedure for managing the amount, form, placement and timing of applications of plant nutrients.

(g) “Qualified agricultural equipment” means advanced technology pesticide and fertilizer application equipment, conservation tillage equipment, dead poultry composting facilities, nutrient management plans, best management practices, nutrient management systems, streambank and shoreline protection systems, stream channel stabilization
systems, stream crossing or access plans, waste management systems, waste storage facilities, and waste treatment lagoons located on or at agricultural operations in this state and certified by the tax commissioner in accordance with section five of this article.

(h) “Streambank and shoreline protection system” means the consistent use of vegetation or structures to stabilize and protect banks of streams, lakes, estuaries, or excavated channels in order to stabilize or protect banks of streams, lakes, estuaries or excavated channels for one or more of the following purposes:

(1) To prevent the loss of land or damage to utilities, roads, buildings, or other facilities adjacent to the banks;

(2) To maintain the capacity of the channel;

(3) To control channel meander that would adversely affect downstream facilities;

(4) To reduce sediment loads causing downstream damages and pollution; or

(5) To improve the stream for recreation or as a habitat for fish and wildlife.

(i) “Stream channel stabilization system” means an established structure for the stabilization of the channel of a stream.

(j) “Stream crossing or access plan” means the maintenance of a stabilized area to provide for crossing of a stream by livestock and farm machinery, or to provide access to the stream for livestock water.

(k) “Waste management system” means a planned system in which all necessary components are installed for managing
liquid and solid waste, including runoff from concentrated waste areas at an agricultural operation, in a manner that does not degrade air, soil or water resources.

(1) “Waste storage facility” means a waste impoundment made by constructing an embankment or excavating a pit or dugout, or both, or by fabricating a facility for the storage of waste from livestock or poultry.

(m) “Waste treatment lagoon” means an impoundment made by excavation or earthfill for biological treatment of animal or other agricultural waste.

§11-13K-3. Amount of credit.

(a) There is allowed to eligible taxpayers who have made investments in qualified agricultural equipment in this state, a credit against taxes imposed by articles twenty-one and twenty-four of this chapter in the amount set forth in subsection (b) of this section.

(b) The amount of credit is equal to twenty-five percent of the purchase price of qualified agricultural equipment, but not to exceed two thousand five hundred dollars for purchases during a taxable year or the total amount of tax imposed by articles twenty-one or twenty-four of this chapter, whichever is less, in the year of purchase of qualified agricultural equipment. If the amount of the credit exceeds the taxpayer’s tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to article twenty-one or twenty-four of this chapter to each of the next five taxable years unless sooner used.

(c) The amount of credit for the investment in the plan or practice described in subsection (e), section two of this article is equal to twenty-five percent of the purchase price of the
poultry litter certified in writing to the tax commissioner by the commissioner of agriculture as having been applied in the established procedure described in legislative rules promulgated by the commissioner of agriculture in accordance with the provisions of article three, chapter twenty-nine-a of this code.

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 11. WEST VIRGINIA RECYCLING PROGRAM.


(a) It is the policy of the state of West Virginia that, to the maximum extent possible, all agencies and instrumentalities of the state purchase recycled products. The goal of the state is to achieve a recycled product mix on future purchases of:

(b) In furtherance of the aforesaid goal, the secretary of the department of administration in consultation with the director of the division of natural resources shall develop a comprehensive procurement program for recycled products. The program shall include, but not be limited to:

1. A review, and subsequent revision, of existing procurement procedures and bid specifications to remove language that discriminates against recycled products;

2. A review, and subsequent revision, of existing procurement procedures and bid specifications to ensure that, to the maximum extent possible, all agencies and instrumentalities of the state purchase recycled products: Provided, That recycled paper products shall be given a price preference of ten percent: Provided, however, That priority shall be given to paper products with the highest postconsumer content;

3. A plan to eliminate, to the maximum extent possible, the use of disposable and single-use products; and
(4) A requirement that all agencies and instrumentalities of the state use compost in all land maintenance and landscaping activities: Provided, That the use of composted or deep stacked poultry litter products, certified by the commissioner of agriculture as being free from organisms that are not found in poultry litter produced in this state, have priority unless determined to be economically unfeasible by the agency or instrumentality.

(c) The secretary shall prepare and submit an annual report on the thirty-first day of January of each year summarizing the program's accomplishments, prospects for the future, and any recommendations. The report shall be submitted to the governor, speaker of the House of Delegates and president of the Senate.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _______ approved this the _______ day of ________, 2000.

Governor
PRESENTED TO THE
GOVERNOR,
Date
3/9/00
Time
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