WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 649

(By Senator McCabe, et al)

PASSED March 8, 2003

In Effect ninety days from Passage
ENROLLED

Senate Bill No. 649

(BY SENATORS MCCABE, FACEMYER, BOWMAN, FANNING, HELMICK, MCKENZIE, MINARD, MINEAR, PLYMALE AND PREZIOSO)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact sections four and six, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article fifteen-a, chapter thirty-one of said code by adding thereto a new section, designated section seventeen-a, all relating to providing for the use of waste tire remediation funds to finance infrastructure projects relating to waste tire processing facilities which have a capital cost of not less than three hundred million dollars.

Be it enacted by the Legislature of West Virginia:

That sections four and six, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article fifteen-a, chapter thirty-one of said code be amended
by adding thereto a new section, designated section seventeen-a, all to read as follows:

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 24. WASTE TIRE REMEDIATION.

§17-24-4. Division of highways to administer funds for waste tire remediation; rules authorized; duties of commissioner.

(a) The division of highways shall administer all funds made available to the division for remediation of waste tire piles and for the proper disposal of waste tires removed from waste tire piles. The commissioner of the division of highways may: (i) Propose for legislative promulgation in accordance with article three, chapter twenty-nine-a of this code emergency and legislative rules necessary to implement the provisions of this article; and (ii) administer all funds appropriated by the Legislature to carry out the requirements of this article and any other funds from whatever source, including, but not limited to, federal, state or private grants.

(b) The commissioner also has the following powers:

(1) To apply and carry out the provisions of this article and the rules promulgated under this article.

(2) To investigate, from time to time, the operation and effect of this article and of the rules promulgated under this article and to report his or her findings and recommendations to the Legislature and the governor.

(c) The provisions of articles two-a and four of this chapter and the policy, rules, practices and procedures under those articles shall be followed by the commissioner in carrying out the purposes of this article.

(d) On or before the first day of June, two thousand one, the commissioner shall determine the location, approximate size and potential risk to the public of all waste tire
piles in the state and establish, in descending order, a waste tire remediation list.

(e) The commissioner may contract with the department of health and human resources and/or the division of corrections to remediate or assist in remediation of waste tire piles throughout the state. Use of available department of health and human resources and the division of corrections work programs shall be given priority status in the contract process so long as such programs prove a cost-effective method of remediating waste tire piles.

(f) Waste tire remediation shall be stopped and the division of environmental protection notified upon the discovery of any potentially hazardous material at a remediation site. The division of environmental protection shall respond to the notification in accordance with the provisions of article eighteen, chapter twenty-two of this code.

(g) The commissioner may establish a tire disposal program within the division to provide for a cost effective and efficient method to accept passenger car and light truck waste tires at such division of highways county headquarters as have sufficient space for temporary storage of waste tires and personnel to accept and handle waste tires. The commissioner may pay a fee for each tire an individual West Virginia resident or West Virginia business brings to the division. The commissioner may establish a limit on the number of tires an individual or business may be paid for during any calendar month. The commissioner may in his or her discretion authorize commercial businesses to participate in the collection program: Provided, That no person or business who has a waste tire pile subject to remediation under this article may participate in this program.

(h) The commissioner may pledge not more than two and one-half million dollars annually of the moneys appropriated, deposited or accrued in the A. James Manchin fund
created by section six, article twenty-four of this chapter, to
the payment of debt service, including the funding of
reasonable reserves, on bonds issued by the water develop-
ment authority pursuant to section seven-a, article fifteen-
a, chapter thirty-one of this code to finance infrastructure
projects relating to waste tire processing facilities located
in this state: Provided, That a waste tire processing facility
shall be determined by the solid waste management board,
established pursuant to the provisions of article three,
chapter twenty-two-c of this code, to meet all applicable
federal and state environmental laws and rules and
regulations and to aid the state in efforts to promote and
encourage recycling and use of constituent component
parts of waste tires in an environmentally sound manner:
Provided, however, That the waste tire processing facility
shall have a capital cost of not less than three hundred
million dollars, and the council for community and
economic development shall determine that the waste tire
processing facility is a viable economic development
project of benefit to the state's economy.

§17-24-6. Creation of the A. James Manchin fund; proceeds
from sale of waste tires; fee on issuance of certificate of title; performance review.

(a) There is hereby created in the state treasury a special
revenue fund known as the “A. James Manchin Fund”.
All moneys appropriated, deposited or accrued in this fund
shall be used exclusively for remediation of waste tire piles
as required by this article for the tire disposal program
established under section four of this article or for the
purposes of subsection (h), section four of this article or for
the purposes of subsection (c), section five of this article.
The fund shall consist of the proceeds from the sale of
waste tires; fees collected by the division of motor vehicles
as provided for in section sixteen, article ten, chapter
seventeen-a of this code; any federal, state or private
grants; legislative appropriations; loans; and any other
funding source available for waste tire remediation. Any
balance remaining in the fund at the end of any state fiscal
year shall not revert to the state treasury, but shall remain
in this fund and be used only in a manner consistent with
the requirements of this article.

(b) No further collections or deposits shall be made after
the commissioner certifies to the governor and the Legisla-
ture that the remediation of all waste tire piles that were
determined by the commissioner to exist on the first day of
June, two thousand one, has been completed and that all
infrastructure bonds issued by the water development
authority pursuant to section seventeen-a, article fifteen-a
of chapter thirty-one of this code have been paid in full or
legally defased.

(c) The joint committee on government operations shall,
pursuant to authority granted in article ten, chapter four
of this code, conduct a preliminary performance review of
the division's compliance with the waste tire remediation
mandated in this article; whether the purposes of this
article have been met; and whether it is appropriate to
terminate this program. In conducting such preliminary
performance review, the committee shall follow the
guidelines established in this article. A preliminary review
shall be completed on or before the first day of January,
two thousand four.

CHAPTER 31. CORPORATION.

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOP-
MENT COUNCIL.

§31-15A-17a. Infrastructure revenue bonds payable from A.
James Manchin fund.

Notwithstanding any other provision of this code to the
contrary, the water development authority may issue, in
accordance with the provisions of section seventeen of this
article, infrastructure revenue bonds payable from the A.
James Manchin fund created by section six, article twenty-
four, chapter seventeen of this code and such other sources
as may be legally pledged for such purposes other than the
West Virginia infrastructure revenue debt service fund
created by section seventeen of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Greg Butler
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April 2003.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/03/03
Time 9:40 am