WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4455

(By Delegates Warner and Michael)

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Passed March 11, 2004

In Effect Ninety Days from Passage
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COMMITTEE SUBSTITUTE

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H. B. 4455

(By Delegates Warner and Michael)

[Passed March 11, 2004; in effect ninety days from passage.]

AN ACT to amend and reenact §17-24-4 and §17-24-6 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §17-24-10, all relating to the waste tire remediation program; allowing balance in fund at end of fiscal year to be transferred to state road fund in certain circumstances; and continuation of the waste tire remediation program.

Be it enacted by the Legislature of West Virginia:

That §17-24-4 and §17-24-6 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §17-24-10, all to read as follows:

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 or the division of corrections, or both, 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 of this article, to the payment of debt service, including the funding of reasonable reserves, on bonds issued
by the water development authority pursuant to section seventeen-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.

(a) There is continued 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 consists of the proceeds from the sale of waste tires; fees collected by the division of motor vehicles as provided 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 unprogrammed
balance remaining in the fund at the end of any state fiscal year shall be transferred to the state road fund.

(b) No further collections or deposits shall be made after the commissioner certifies to the governor and the Legislature 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 defeased.

c) If infrastructure bonds are not issued by the water development authority pursuant to section seventeen-a, article fifteen-a, chapter thirty-one of this code to finance infrastructure projects relating to waste tire processing facilities located in this state on or before the thirty-first day of December, two thousand six, all further collections and deposits to the A. James Manchin fund which are not programmed for remediation or disposal shall be transferred to the state road fund at the end of each fiscal year.

§17-24-10. Continuation of waste tire remediation program.

The waste tire remediation program shall continue to exist, pursuant to the provisions of article ten, chapter four of this code, until the first day of July, two thousand six, unless sooner terminated, continued or reestablished pursuant to the provisions of that article.
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 is approved this the 5th
day of April, 2004.

Governor