

HB 3339

FILED

2009 MAY -8 PM 3:42

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 3339**

(By Delegate Mahan)



Passed April 11, 2009

In Effect from Passage

E N R O L L E D

FILED

2009 MAY -8 PM 3:42

COMMITTEE SUBSTITUTE

FOR

OFFICE WEST VIRGINIA
SECRETARY OF STATE

H. B. 3339

(BY DELEGATE MAHAN)

[Passed April 11, 2009; in effect from passage.]

AN ACT to amend and reenact §22-16-12 of the Code of West Virginia, 1931, as amended, relating to facilitate the complete closure of the Gwinn, or otherwise known as the Midwest Landfill, located in Summers County, by having the Secretary of the Department of Environmental Protection place said closure as a top priority use of Solid Waste Facility Closure Cost Assistance Fund moneys.

Be it enacted by the Legislature of West Virginia:

That §22-16-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE.

**§22-16-12. Solid Waste Facility Closure Cost Assistance Fund;
closure extension; reporting requirements.**

1 (a) The "Closure Cost Assistance Fund" is continued as
2 a special revenue account in the State Treasury. The fund
3 shall operate as a special fund whereby all deposits and
4 payments thereto do not expire to the General Revenue Fund,
5 but shall remain in such account and be available for
6 expenditure in the succeeding fiscal year. Separate
7 subaccounts may be established within the special account
8 for the purpose of identification of various revenue resources
9 and payment of specific obligations.

10 (b) Interest earned on any money in the fund shall be
11 deposited to the credit of the fund.

12 (c) The fund consists of the following:

13 (1) Moneys collected and deposited in the State Treasury
14 which are specifically designated by acts of the Legislature
15 for inclusion in the fund, including moneys collected and
16 deposited into the fund pursuant to section four of this article;

17 (2) Contributions, grants and gifts from any source, both
18 public and private, which may be used by the secretary for
19 any project or projects;

20 (3) Amounts repaid by permittees pursuant to section
21 eighteen, article fifteen of this chapter; and

22 (4) All interest earned on investments made by the state
23 from moneys deposited in this fund.

24 (d) The Solid Waste Management Board, upon written
25 approval of the secretary, has the authority to pledge all or
26 such part of the revenues paid into the Closure Cost

27 Assistance Fund as may be needed to meet the requirements
28 of any revenue bond issue or issues of the Solid Waste
29 Management Board authorized by this article, including the
30 payment of principal of, interest and redemption premium, if
31 any, on such revenue bonds and the establishing and
32 maintaining of a reserve fund or funds for the payment of the
33 principal of, interest and redemption premium, if any, on
34 such revenue bond issue or issues when other moneys
35 pledged may be insufficient therefor. Any pledge of moneys
36 in the Closure Cost Assistance Fund for revenue bonds shall
37 be a prior and superior charge on such fund over the use of
38 any of the moneys in such fund to pay for the cost of any
39 project on a cash basis. Expenditures from the fund, other
40 than for the retirement of revenue bonds, may only be made
41 in accordance with this article.

42 (e) The amounts deposited in the fund may be expended
43 only on the cost of projects as provided for in sections three
44 and fifteen of this article, as provided in subsection (f) of this
45 section and for payment of bonds and notes issued pursuant
46 to section five of this article. No more than two percent of
47 the annual deposits to such fund may be used for
48 administrative purposes.

49 (f) Notwithstanding any provision of this article, upon
50 request of the Solid Waste Management Board, and with the
51 approval of the projects by the Secretary of the Department
52 of Environmental Protection, the secretary may pledge and
53 place into escrow accounts up to an aggregate of \$2,000,000
54 of the fund to satisfy two years debt service requirement that
55 permittees of publicly-owned landfills and transfer stations
56 are required to meet in order to obtain loans. Pledges shall be
57 made on a project-by-project basis, may not exceed \$500,000
58 for a project and shall be made available after loan
59 commitments are received. The secretary may pledge funds
60 for a loan only when the following conditions are met:

61 (1) The proceeds of the loan are used only to perform
62 construction of a transfer station or a composite liner system
63 that is required to meet title forty-seven, series thirty-eight,
64 solid waste management rules;

65 (2) The permittee dedicates all yearly debt service
66 revenue, as determined by the Public Service Commission, to
67 meet the repayment schedule of the loan, before it uses
68 available revenue for any other purpose; and

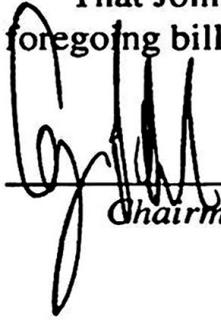
69 (3) That any funds pledged may only be paid to the
70 lender if the permittee is in default on the loan.

71 (g) Any landfills which were ordered to close by
72 December 31, 1994, and which have been granted a
73 certificate of need pursuant to subsection (b), section one-c,
74 article two, chapter twenty-four of this code or section one-i
75 of said article are hereby granted a closure extension until
76 January 1, 1996. No landfill which closed on or before
77 September 30, 1994, shall be eligible for such an extension.

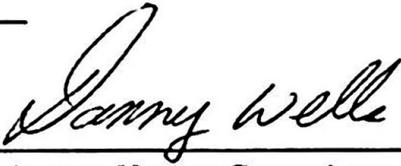
78 (h) The Department of Environmental Protection is
79 required to file, by January 1 of each ensuing year, an annual
80 report with the Joint Committee on Government and Finance
81 providing details on the manner in which the landfill closure
82 assistance funds were expended for the prior fiscal year.

83 (i) Notwithstanding any other contrary provision of this
84 code, the secretary shall place as a top priority to expend any
85 and all funds derived from the Solid Waste Facility Closure
86 Cost Assistance Fund necessary to facilitate the complete
87 closure forthwith of the now-defunct Gwinn or otherwise
88 known as the Midwest Landfill, located in Summers County.

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



Chairman Senate Committee



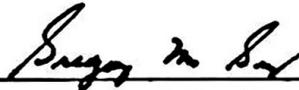
Chairman House Committee

Originating in the House.

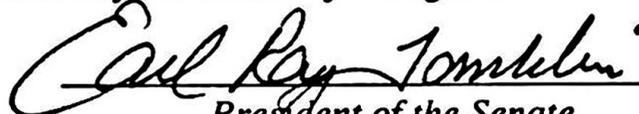
In effect from passage.



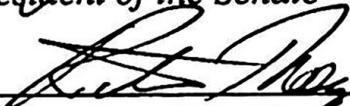
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

The within is approved this the 8th
day of May, 2009.



Governor

PRESENTED TO THE
GOVERNOR

MAY - 5 2009

Time

2:50 pm