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
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.

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

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

(c) The fund consists of the following:

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

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

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

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

(d) The Solid Waste Management Board, upon written approval of the secretary, has the authority to pledge all or such part of the revenues paid into the Closure Cost
Assistance Fund as may be needed to meet the requirements of any revenue bond issue or issues of the Solid Waste Management Board authorized by this article, including the payment of principal of, interest and redemption premium, if any, on such revenue bonds and the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on such revenue bond issue or issues when other moneys pledged may be insufficient therefor. Any pledge of moneys in the Closure Cost Assistance Fund for revenue bonds shall be a prior and superior charge on such fund over the use of any of the moneys in such fund to pay for the cost of any project on a cash basis. Expenditures from the fund, other than for the retirement of revenue bonds, may only be made in accordance with this article.

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

(f) Notwithstanding any provision of this article, upon request of the Solid Waste Management Board, and with the approval of the projects by the Secretary of the Department of Environmental Protection, the secretary may pledge and place into escrow accounts up to an aggregate of $2,000,000 of the fund to satisfy two years debt service requirement that permittees of publicly-owned landfills and transfer stations are required to meet in order to obtain loans. Pledges shall be made on a project-by-project basis, may not exceed $500,000 for a project and shall be made available after loan commitments are received. The secretary may pledge funds for a loan only when the following conditions are met:
(1) The proceeds of the loan are used only to perform construction of a transfer station or a composite liner system that is required to meet title forty-seven, series thirty-eight, solid waste management rules;

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

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

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

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

(i) Notwithstanding any other contrary provision of this code, the secretary shall place as a top priority to expend any and all funds derived from the Solid Waste Facility Closure Cost Assistance Fund necessary to facilitate the complete closure forthwith of the now-defunct Gwinn or otherwise 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 _____ day of May, 2009.

Governor