Senate Bill No. 676

(By Senators Prezioso, D. Facemire, Chafin, Edgell, Green, Helmick, Laird, McCabe, Miller, Plymale, Stollings, Unger, Wells, Yost, Boley, Hall and Sypolt)

[Passed March 9, 2012; in effect from passage.]
AN ACT to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to Chesapeake Bay watershed compliance projects; and specifying dates by which eligible projects may apply for grant funding.

Be it enacted by the Legislature of West Virginia:

That §31-15A-17b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.

§31-15A-17b. Infrastructure lottery revenue bonds for watershed compliance projects.

1 (a)(1) The Chesapeake Bay has been identified as an impaired water body due to excessive nutrients entering the Bay from various sources in six states, including wastewater facilities in West Virginia. To restore the Chesapeake Bay, the states have agreed to reduce their respective nutrient contributions to the Chesapeake Bay.
(2) The Greenbrier River Watershed in southeastern West Virginia which encompasses approximately 1,646 square miles, the majority of which lies within Pocahontas, Greenbrier, Monroe and Summers counties, has been identified as an impaired water body due to excessive levels of fecal coliform and phosphorus entering the Watershed from various sources, including wastewater facilities in West Virginia. To restore the Greenbrier River Watershed, the state agrees to reduce the fecal coliform and phosphorus contributions to the Greenbrier River Watershed.

(b) 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 lottery revenue bonds payable from the West Virginia infrastructure lottery revenue debt service fund created by section nine of this article 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.

(c) The council shall direct the Water Development Authority to issue bonds in one or more series when it has approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects with an authorized permitted flow of four hundred thousand gallons per day or more. The proceeds of the bonds shall be used solely to pay costs of issuance, fund a debt service reserve account, capitalize interest, pay for security instruments necessary to market the bonds and to make grants to governmental instrumentalities of the state for the construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects. To the extent funds are available in the West Virginia Infrastructure Lottery Revenue Debt Service Fund that are not needed for debt service, the council may direct the Water Development Authority to make grants to project sponsors for the design or construction of approved Chesapeake Bay watershed compliance projects and Greenbrier River watershed compliance projects: Provided, That the council shall direct
the water development authority to provide from monies in
the Lottery Revenue Debt Service Fund not needed to pay
debt service in fiscal year 2013 a grant of $6 million to a
Chesapeake Bay watershed compliance project which opened
bids on December 28, 2011 and further provided that such
Chesapeake Bay watershed compliance project shall receive
no further grant funding under this section after receipt of
the $6 million grant.

(d) No later than June 30, 2012, each publicly owned
facility with an authorized permitted flow of 400,000 gallons
per day or more that is subject to meeting Chesapeake Bay
compliance standards or Greenbrier River watershed
compliance standards shall submit to the council a ten year
projected capital funding plan for Chesapeake Bay water-
shed compliance projects or Greenbrier River watershed
compliance projects, as the case may be, including a general
project description, cost estimate and estimated or actual
project start date and project completion date, if any. The
council shall timely review the submitted capital funding
plans and forward approved plans to the Water Development
Authority for further processing and implementation
pursuant to this article. If the council finds a plan to be
incomplete, inadequate or otherwise problematic, it shall
return the plan to the applicant with comment on the plan
shortcomings. The applicant may then resubmit to council an
amended capital funding plan for further consideration
pursuant to the terms of this subsection.

(e) Upon approval, each proposed Chesapeake Bay
watershed compliance project or Greenbrier River watershed
compliance project, or portion of a larger project, which
portion is dedicated to compliance with nutrient standards,
or fecal coliform and phosphorus standards, established for
the protection and restoration of the Chesapeake Bay or the
Greenbrier River Watershed, as the case may be, shall be
eligible for grant funding by funds generated by the infra-
structure lottery revenue bonds described in section (b) of
this section. At the request of the applicant, the remaining
percentage of project funding not otherwise funded by grant
under the provisions of this article may be reviewed as a standard project funding application.

(f) No later than December 1, 2012, the Water Development Authority shall report to the Joint Committee on Government and Finance the total cost of Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects and the proposed grant awards for each eligible project. Grant awards shall be of equal ratio among all applicants of the total cost of each eligible project.

(g) Eligible projects that have obtained project financing prior to December 31, 2012, may apply to the council for funding under the provisions of this section. These applications shall be processed and considered as all other eligible projects, and a grant funding awarded shall, to the extent allowed by law, be dedicated to prepay all or a portion of debt previously incurred by governmental instrumentalities of the state for required Chesapeake Bay nutrient removal projects or Greenbrier River watershed fecal coliform and phosphorus removal projects, subject to the bond covenants and contractual obligations of the borrowing governmental entity. However, any private portion of funding provided by agreement between a political subdivision and one or more private entities, either by direct capital investment or debt service obligation, shall not be eligible for grant funding under the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within is approved this the 19th Day of March, 2012.

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Governor
PRESENTED TO THE GOVERNOR

MAR 15 2012

Time 1:45 pm