West Virginia Legislature
Eighty-First Legislature
Regular Session, 2013

Enrolled
Senate Bill No. 596
(By Senators Kessler (Mr. President) and M. Hall, By Request of the Executive)

[Passed April 13, 2013; in effect from passage.]
Senate Bill No. 596

(By Senators Kessler (Mr. President) and M. Hall, By Request of the Executive)

[Passed April 13, 2013; in effect from passage.]

AN ACT to amend and reenact §31-15A-17b of the Code of West Virginia, 1931, as amended, relating to requiring the West Virginia Infrastructure and Jobs Development Council to direct the Water Development Authority to make grants to certain eligible certified Chesapeake Bay and Greenbrier River watershed compliance projects.

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 moneys 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 four hundred thousand 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 watershed 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
infrastructure 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. From the proceeds of bonds
issued under subsection (b) of this section, the council shall
direct the Water Development Authority to make grants to
eligible projects ready to proceed to construction and those
grant awards shall be pro rated to an equal percentage of total
eligible costs among all applicants for each eligible project
as certified by the Water Development Authority in its report
to the Joint Committee on Government and Finance dated
November 28, 2012: Provided, That the final project, and its
financing, is consistent with the scope of the eligible project
included in the council’s approval on December 5, 2012.
(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.

Rocky Faison  
Member Chairman Senate Committee

Danny Wells  
Chairman House Committee

Originated in the Senate.

In effect from passage.

Joseph M. Jirau  
Clerk of the Senate

Gregg A. Say  
Clerk of the House of Delegates

Mike Manchin III  
President of the Senate

C. W. SASHEL  
Speaker of the House of Delegates

The within bill approved this the 2nd Day of May, 2013.

Earl Ray Tomblin  
Governor