ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4339

(By Delegates Campbell, Hartman, Lynch, Sponaugle, Manchin, White and Hamilton)

Passed March 8, 2014

In effect ninety days from passage.
AN ACT to amend and reenact §22-16-11 and §22-16-12 of the Code of West Virginia, 1931, as amended, relating to authorizing the expenditures of moneys from the Closure Cost Assistance Fund to facilitate the closure of the Elkins-Randolph County Landfill and the Webster County Landfill; authorizing expenditures of moneys from the Closure Cost Assistance Fund to complete post closure maintenance and monitoring; and limiting liability of state and Wayne County economic development authority if permit is transferred.

Be it enacted by the Legislature of West Virginia:

That §22-16-11 and §22-16-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:
ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.


1 (a) The secretary shall provide an application and application procedure for all permittees of solid waste landfills desiring to receive closure assistance under this article.

3 (b) The secretary shall, within a reasonable time after receipt of a complete application, notify the applicant of the acceptance or rejection of the application. If the application is rejected the notice shall contain the reasons for the rejection.

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

1 (a) The "Closure Cost Assistance Fund" continues as a special revenue account in the State Treasury. The fund operates as a special fund in which all deposits and payments do not expire to the General Revenue Fund, but remain in the account and are 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.

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

3 (c) The fund consists of the following:

4 (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;

5 (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 permitees 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 part of the revenues paid into the Closure Cost Assistance Fund as 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 the 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 the revenue bond issue or issues where other moneys pledged may be insufficient. Any pledge of moneys in the Closure Cost Assistance Fund for revenue bonds is a prior and superior charge on the fund over the use of any of the moneys in the 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 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 the 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 permitees 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 are
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) Notwithstanding any provision of this code to the
contrary, the Elkins-Randolph County Landfill, located in
Randolph County, and the Webster County Landfill, located in
Webster County, are eligible for funds from the Solid Waste
Facility Closure Cost Assistance Fund necessary to complete
their closure upon the filing of appropriate application. Upon the
filing of an appropriate application, the Department of
Environmental Protection shall work with the applicant to ensure
the application meets the department's requirements.

(h) The Department of Environmental Protection is required
to file, by January 1 of each 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) The Prichard Landfill in Wayne County is eligible for
funds from the Closure Cost Assistance Fund necessary to
complete post closure maintenance and monitoring upon the
filing of an appropriate application. In the event of a permit transfer, neither the State nor the Wayne County economic development authority or entity may assume any liability from the private landfill other than post closure maintenance and monitoring costs.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 31st day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 2 & APR

Time 10:45 A.M.