

SB 715

FILED

2009 JUN -5 PM 4: 21

WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

OFFICE WEST VIRGINIA
SECRETARY OF STATE

—●—
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 715

(SENATORS SNYDER, UNGER, HELMICK, McCABE,
PLYMALE AND KESSLER, *original sponsors*)

[Passed May 29, 2009; in effect ninety days from passage.]

FILED

2009 JUN -5 PM 4:21

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 715

(SENATORS SNYDER, UNGER, HELMICK, MCCABE, PLYMALE AND
KESSLER, *original sponsors*)

[Passed May 29, 2009; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-11-30, relating to the protection of the Chesapeake Bay Watershed; establishing a nutrient trading and offset program; proposing nutrient performance standards for wastewater treatment facilities; and recommending a program to fund capital improvements needed to meet nutrient removal requirements.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §22-11-30, to read as follows:

ARTICLE 11. WEST VIRGINIA WATER POLLUTION CONTROL ACT.

§22-11-30. Chesapeake Bay Restoration Initiative.

1 (a) The Legislature finds and declares that:

2 (1) The Chesapeake Bay and its tributaries are valuable
3 natural resources providing both recreational and eco-
4 nomic opportunities to citizens living in and around the
5 Chesapeake Bay watershed. Eight West Virginia counties,
6 and a collective population of more than two hundred
7 thousand citizens, are within the Chesapeake Bay water-
8 shed. The protection and promotion of the environmental
9 health and integrity of the Chesapeake Bay is accordingly
10 in the best interests of the State of West Virginia.

11 (2) The Chesapeake Bay has been identified by the
12 United States Environmental Protection Agency as an
13 impaired water due to excess nitrogen and phosphorous
14 entering the bay from its various tributaries. These
15 pollutants, commonly referred to as nutrients, result in
16 depleted dissolved oxygen supplies and other factors
17 which impact the overall health of the Chesapeake Bay
18 and its watershed.

19 (b) West Virginia is among six states from which nutri-
20 ents flow into the Chesapeake Bay. In order to restore the
21 Chesapeake Bay, these states have agreed to reduce the
22 amount of nutrients contributed to the Chesapeake Bay by
23 sources located within their respective jurisdictions.

24 (c) Among the sources of nutrients discharged into the
25 Chesapeake Bay watershed are wastewater discharged by
26 West Virginia wastewater treatment facilities, stormwater
27 discharged from various sources, wastewater discharged
28 from agriculture-related activities and other sources of
29 wastewater related to both natural and man-made impacts
30 which are not specifically set forth herein.

31 (d) The need to provide and maintain affordable and
32 high-quality public infrastructure services and to safe-
33 guard existing industrial and agricultural sectors of the

34 economy in the Chesapeake Bay watershed are essential to
35 the continued economic growth and quality of life of West
36 Virginia communities within the watershed. Protection of
37 these communities' economic vitality and the Chesapeake
38 Bay are critical interests of the state. The capital costs of
39 nutrient removal processes, if borne by individual rate
40 customers of sewer services or by individual business
41 owners, would result in significant increases in rates for
42 an essential public service, deferral or cancellation of
43 other critical infrastructure extensions and/or improve-
44 ments and act as a disincentive for business growth, both
45 commercial and agricultural, in these communities, if not
46 the shrinking of industrial and agricultural activity in the
47 watershed. Therefore, a holistic program, while assuring
48 the protection of the Chesapeake Bay, must include: (1) A
49 nutrient trading and off-set program to allow for efficien-
50 cies within the watershed to assure that public moneys are
51 placed to best use; and (2) a capital improvement program
52 to assist those required to install capital improvements to
53 obtain the reductions in nutrients previously agreed to by
54 the state.

55 (e) The secretary, in consultation with affected stake-
56 holders, is hereby directed to establish no later than June
57 1, 2011, a program of nutrient trading and off-sets.
58 Pending establishment of such a program, the secretary is
59 authorized to consider and implement interim trading and
60 offset programs as necessary and appropriate for individ-
61 ual permittees in order to protect the Chesapeake Bay and
62 its tributaries.

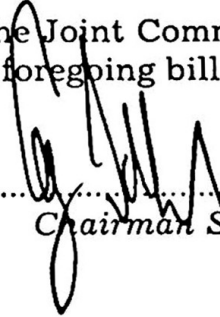
63 (f) The secretary is hereby directed, no later than June 1,
64 2010, and in consultation with affected stakeholders, to
65 report to the Joint Legislative Commission on State Water
66 Resources the status of proposed performance standards
67 necessary for wastewater treatment facilities in the
68 Chesapeake Bay watershed for any reduction of nutrients

69 in the watershed required to protect water quality in the
70 Bay.

71 (g) The secretary and stakeholders shall, no later than
72 June 1, 2010, consider and recommend to the Legislature
73 a program establishing a new and independent source of
74 funding for capital improvements for public facilities
75 made necessary by the imposition of nutrient removal
76 requirements.

77 (h) Should it be determined based upon new information
78 or the issuance of a final total maximum daily load for the
79 Chesapeake Bay that modifications to nutrient loading
80 requirements contained in West Virginia/National Pollut-
81 ant Discharge Elimination System permits are necessary
82 to be consistent with this new information or the final
83 total maximum daily load, the secretary shall recalculate
84 such loading requirements and modify such permits
85 consistent with this information.

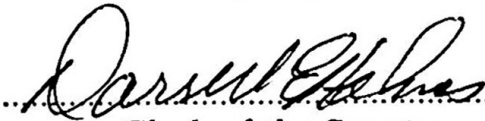
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

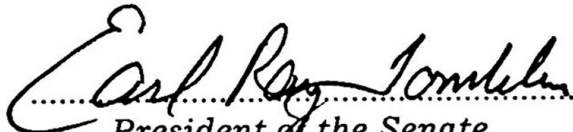

.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within is approved this the 5th
Day of June, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

JUN - 3 2009

Time 10:30 AM