

SB 715 (Veto)

FILED

2009 MAY -7 PM 6: 35

OFFICE WEST VIRGINIA
STATE OF STATE

WEST VIRGINIA LEGISLATURE

SEVENTY-NINTH LEGISLATURE

REGULAR SESSION, 2009



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 715

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

[Passed April 11, 2009; in effect ninety days from passage.]

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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FOR

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

[Passed April 11, 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; and nutrient reductions projects.

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
20 nutrients flow into the Chesapeake Bay. In order to
21 restore the Chesapeake Bay, these states have agreed to
22 reduce the amount of nutrients contributed to the Ches-
23 apeake Bay by sources located within their respective
24 jurisdictions.

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

32 (d) The need to provide and maintain affordable and
33 high-quality public infrastructure services and to safe-
34 guard existing industrial and agricultural sectors of the
35 economy in the Chesapeake Bay watershed are essential to
36 the continued economic growth and quality of life of West

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

56 (e) The secretary, in consultation with affected stake-
57 holders, is hereby directed to establish no later than June
58 1, 2012, a program of nutrient trading and off-sets.
59 Pending establishment of such a program, the secretary is
60 authorized to consider and implement interim trading and
61 offset programs as necessary and appropriate for individ-
62 ual permittees in order to protect the Chesapeake Bay and
63 its tributaries.

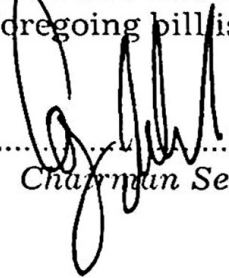
64 (f) The secretary is hereby directed, no later than June
65 1, 2010, and in consultation with affected stakeholders, to
66 report to the Joint Legislative Commission on State Water
67 Resources the status of proposed performance standards
68 necessary for wastewater treatment facilities in the
69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

72 (g) The Secretary and stakeholders shall, no later than
73 June 1, 2012, consider and recommend to the Legislature
74 a program establishing a new and independent source of
75 funding for capital improvements made necessary by the
76 imposition of nutrient removal requirements.

77 (h) The secretary shall, pursuant to the requirements of
78 the West Virginia Water Pollution Control and applicable
79 rules, modify existing West Virginia/National Pollutant
80 Discharge Elimination System permits containing limita-
81 tions for the discharge of phosphorous and nitrogen into
82 the Chesapeake Bay watershed so as to make said limita-
83 tions effective and final only upon the completion of the
84 requirements set forth in subsections (e), (f) and (g) of this
85 section and no later than June 1, 2014. Further, upon the
86 approval by the Legislature of the requirements as set
87 forth in subsections (e), (f) and (g) of this section, and no
88 later than June 1, 2014, the secretary shall further modify
89 those permits set forth in this subsection and further grant
90 affected entities a reasonable period of time to attain
91 affordable compliance with any requirement related to the
92 discharge of nitrogen and phosphorous into the Chesa-
93 peake Bay watershed.

94 (i) Should it be determined based upon new information
95 or the issuance of a final total maximum daily load for the
96 Chesapeake Bay that modifications to nutrient loading
97 requirements contained in West Virginia/National Pollut-
98 ant Discharge Elimination System permits are necessary
99 to be consistent with this new information or the final
100 total maximum daily load, the secretary shall recalculate
101 such loading requirements and modify such permits
102 consistent with this information.

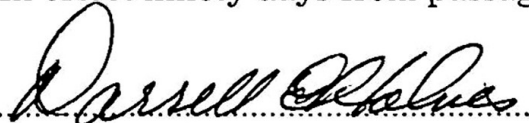
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee

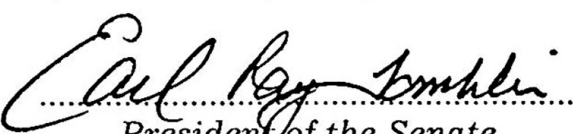

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Chairman House Committee

Originated in the Senate.

In effect ninety days 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 House of Delegates

The within is disapproved this the 7th
Day of May, 2009.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAY 1 2009

Time 2:50 pm