

1 **ENROLLED**

2 **Senate Bill No. 596**

3 (BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,

4 BY REQUEST OF THE EXECUTIVE)

5 _____
6 [Passed April 13, 2013; in effect from passage.]
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10 AN ACT to amend and reenact §31-15A-17b of the Code of West
11 Virginia, 1931, as amended, relating to requiring the West
12 Virginia Infrastructure and Jobs Development Council to direct
13 the Water Development Authority to make grants to certain
14 eligible certified Chesapeake Bay and Greenbrier River
15 watershed compliance projects.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT**
20 **COUNCIL.**

21 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**
22 **compliance projects.**

1 (a) (1) The Chesapeake Bay has been identified as an impaired
2 water body due to excessive nutrients entering the bay from various
3 sources in six states, including wastewater facilities in West
4 Virginia. To restore the Chesapeake Bay, the states have agreed to
5 reduce their respective nutrient contributions to the Chesapeake
6 Bay.

7 (2) The Greenbrier River Watershed in southeastern West
8 Virginia which encompasses approximately 1,646 square miles, the
9 majority of which lies within Pocahontas, Greenbrier, Monroe and
10 Summers counties, has been identified as an impaired water body due
11 to excessive levels of fecal coliform and phosphorus entering the
12 watershed from various sources, including wastewater facilities in
13 West Virginia. To restore the Greenbrier River Watershed, the
14 state agrees to reduce the fecal coliform and phosphorus
15 contributions to the Greenbrier River Watershed.

16 (b) Notwithstanding any other provision of this code to the
17 contrary, the Water Development Authority may issue, in accordance
18 with the provisions of section seventeen of this article,
19 infrastructure lottery revenue bonds payable from the West Virginia
20 Infrastructure Lottery Revenue Debt Service Fund created by section
21 nine of this article and such other sources as may be legally
22 pledged for such purposes other than the West Virginia

1 Infrastructure Revenue Debt Service Fund created by section
2 seventeen of this article.

3 (c) The council shall direct the Water Development Authority
4 to issue bonds in one or more series when it has approved
5 Chesapeake Bay watershed compliance projects and Greenbrier River
6 watershed compliance projects with an authorized permitted flow of
7 four hundred thousand gallons per day or more. The proceeds of the
8 bonds shall be used solely to pay costs of issuance, fund a debt
9 service reserve account, capitalize interest, pay for security
10 instruments necessary to market the bonds and to make grants to
11 governmental instrumentalities of the state for the construction of
12 approved Chesapeake Bay watershed compliance projects and
13 Greenbrier River watershed compliance projects. To the extent
14 funds are available in the West Virginia Infrastructure Lottery
15 Revenue Debt Service Fund that are not needed for debt service, the
16 council may direct the Water Development Authority to make grants
17 to project sponsors for the design or construction of approved
18 Chesapeake Bay watershed compliance projects and Greenbrier River
19 watershed compliance projects: *Provided*, That the council shall
20 direct the Water Development Authority to provide from moneys in
21 the Lottery Revenue Debt Service Fund not needed to pay debt
22 service in fiscal year 2013 a grant of \$6 million to a Chesapeake

1 Bay watershed compliance project which opened bids on December 28,
2 2011, and further provided that such Chesapeake Bay watershed
3 compliance project shall receive no further grant funding under
4 this section after receipt of the \$6 million grant.

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

22 (e) Upon approval, each proposed Chesapeake Bay watershed

1 compliance project or Greenbrier River watershed compliance
2 project, or portion of a larger project, which portion is dedicated
3 to compliance with nutrient standards, or fecal coliform and
4 phosphorus standards, established for the protection and
5 restoration of the Chesapeake Bay or the Greenbrier River
6 watershed, as the case may be, shall be eligible for grant funding
7 by funds generated by the infrastructure lottery revenue bonds
8 described in subsection (b) of this section. At the request of the
9 applicant, the remaining percentage of project funding not
10 otherwise funded by grant under the provisions of this article may
11 be reviewed as a standard project funding application.

12 (f) No later than December 1, 2012, the Water Development
13 Authority shall report to the Joint Committee on Government and
14 Finance the total cost of Chesapeake Bay watershed compliance
15 projects and the Greenbrier River watershed compliance projects and
16 the proposed grant awards for each eligible project. From the
17 proceeds of bonds issued under subsection (b) of this section, the
18 council shall direct the Water Development Authority to make grants
19 to eligible projects ready to proceed to construction and those
20 grant awards shall be pro rated to an equal percentage of total
21 eligible costs among all applicants for each eligible project as
22 certified by the Water Development Authority in its report to the

1 Joint Committee on Government and Finance dated November 28, 2012:
2 *Provided*, That the final project, and its financing, is consistent
3 with the scope of the eligible project included in the council's
4 approval on December 5, 2012.

5 (g) Eligible projects that have obtained project financing
6 prior to December 31, 2012, may apply to the council for funding
7 under the provisions of this section. These applications shall be
8 processed and considered as all other eligible projects, and a
9 grant funding awarded shall, to the extent allowed by law, be
10 dedicated to prepay all or a portion of debt previously incurred by
11 governmental instrumentalities of the state for required Chesapeake
12 Bay nutrient removal projects or Greenbrier River watershed fecal
13 coliform and phosphorus removal projects, subject to the bond
14 covenants and contractual obligations of the borrowing governmental
15 entity. However, any private portion of funding provided by
16 agreement between a political subdivision and one or more private
17 entities, either by direct capital investment or debt service
18 obligation, shall not be eligible for grant funding under the
19 provisions of this article.