

1 **H. B. 3026**

2  
3 (By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)  
4 [By Request of the Executive]  
5 [Introduced March 21, 2013; referred to the  
6 Committee on Finance.]  
7  
8  
9

10 A BILL to amend and reenact §31-15A-17b of the Code of West  
11 Virginia, 1931, as amended, relating to the determination of  
12 the amount of grant awards for Chesapeake Bay watershed  
13 compliance projects and the Greenbrier River watershed  
14 compliance projects.

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

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

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

20 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**  
21 **compliance projects.**

22 (a) (1) The Chesapeake Bay has been identified as an impaired  
23 water body due to excessive nutrients entering the Bay from various

1 sources in six states, including wastewater facilities in West  
2 Virginia. To restore the Chesapeake Bay, the states have agreed to  
3 reduce their respective nutrient contributions to the Chesapeake  
4 Bay.

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

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

24 (c) The council shall direct the Water Development Authority

1 to issue bonds in one or more series when it has approved  
2 Chesapeake Bay watershed compliance projects and Greenbrier River  
3 watershed compliance projects with an authorized permitted flow of  
4 four hundred thousand gallons per day or more. The proceeds of the  
5 bonds shall be used solely to pay costs of issuance, fund a debt  
6 service reserve account, capitalize interest, pay for security  
7 instruments necessary to market the bonds and to make grants to  
8 governmental instrumentalities of the state for the construction of  
9 approved Chesapeake Bay watershed compliance projects and  
10 Greenbrier River watershed compliance projects. To the extent  
11 funds are available in the West Virginia Infrastructure Lottery  
12 Revenue Debt Service Fund that are not needed for debt service, the  
13 council may direct the Water Development Authority to make grants  
14 to project sponsors for the design or construction of approved  
15 Chesapeake Bay watershed compliance projects and Greenbrier River  
16 watershed compliance projects: *Provided*, That the council shall  
17 direct the Water Development Authority to provide from moneys in  
18 the Lottery Revenue Debt Service Fund not needed to pay debt  
19 service in fiscal year 2013 a grant of \$6 million to a Chesapeake  
20 Bay watershed compliance project which opened bids on December 28,  
21 2011, and further provided that such Chesapeake Bay watershed  
22 compliance project shall receive no further grant funding under  
23 this section after receipt of the \$6 million grant.

24 (d) No later than June 30, 2012, each publicly owned facility

1 with an authorized permitted flow of four hundred thousand gallons  
2 per day or more that is subject to meeting Chesapeake Bay  
3 compliance standards or Greenbrier River watershed compliance  
4 standards shall submit to the council a ten year projected capital  
5 funding plan for Chesapeake Bay watershed compliance projects or  
6 Greenbrier River watershed compliance projects, as the case may be,  
7 including a general project description, cost estimate and  
8 estimated or actual project start date and project completion date,  
9 if any. The council shall timely review the submitted capital  
10 funding plans and forward approved plans to the Water Development  
11 Authority for further processing and implementation pursuant to  
12 this article. If the council finds a plan to be incomplete,  
13 inadequate or otherwise problematic, it shall return the plan to  
14 the applicant with comment on the plan shortcomings. The applicant  
15 may then resubmit to council an amended capital funding plan for  
16 further consideration pursuant to the terms of this subsection.

17 (e) Upon approval, each proposed Chesapeake Bay watershed  
18 compliance project or Greenbrier River watershed compliance  
19 project, or portion of a larger project, which portion is dedicated  
20 to compliance with nutrient standards, or fecal coliform and  
21 phosphorus standards, established for the protection and  
22 restoration of the Chesapeake Bay or the Greenbrier River  
23 watershed, as the case may be, shall be eligible for grant funding  
24 by funds generated by the infrastructure lottery revenue bonds

1 described in section (b) of this section. At the request of the  
2 applicant, the remaining percentage of project funding not  
3 otherwise funded by grant under the provisions of this article may  
4 be reviewed as a standard project funding application.

5 (f) No later than December 1, 2012, the Water Development  
6 Authority shall report to the Joint Committee on Government and  
7 Finance the total cost of Chesapeake Bay watershed compliance  
8 projects and the Greenbrier River watershed compliance projects and  
9 the proposed grant awards for each eligible project. From the  
10 proceeds of bonds issued under subsection (b) of this section, the  
11 council shall direct the Water Development Authority to make grants  
12 to eligible projects ready to proceed to construction and those  
13 grant awards shall be ~~of equal ratio~~ pro rated to an equal  
14 percentage of total eligible costs among all applicants ~~of the~~  
15 ~~total cost of~~ for each eligible project as certified by the Water  
16 Development Authority in its report to the Joint Committee on  
17 Government and Finance dated November 28, 2012: *Provided, That the*  
18 final project, and its financing, is consistent with the scope of  
19 the eligible project included in the council's approval on December  
20 5, 2012.

21 (g) Eligible projects that have obtained project financing  
22 prior to December 31, 2012, may apply to the council for funding  
23 under the provisions of this section. These applications shall be  
24 processed and considered as all other eligible projects, and a

1 grant funding awarded shall, to the extent allowed by law, be  
2 dedicated to prepay all or a portion of debt previously incurred by  
3 governmental instrumentalities of the state for required Chesapeake  
4 Bay nutrient removal projects or Greenbrier River watershed fecal  
5 coliform and phosphorus removal projects, subject to the bond  
6 covenants and contractual obligations of the borrowing governmental  
7 entity. However, any private portion of funding provided by  
8 agreement between a political subdivision and one or more private  
9 entities, either by direct capital investment or debt service  
10 obligation, shall not be eligible for grant funding under the  
11 provisions of this article.

NOTE: The purpose of this bill is to make provision for determination of the amount of grant awards for Chesapeake Bay watershed compliance projects and the Greenbrier River watershed compliance projects.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.