

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4339**

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

6 (Originating in the Committee on Finance)

7 [February 13, 2014]

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9
10 A BILL to amend and reenact §22-16-11 and §22-16-12 of the Code of
11 West Virginia, 1931, as amended, all relating to authorizing
12 the expenditures of moneys from the Closure Cost Assistance
13 Fund to facilitate the closure of the Elkins-Randolph County
14 Landfill and the Webster County Landfill.

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

16 That §22-16-11 and §22-16-12 of the Code of West Virginia,
17 1931, as amended, be amended and reenacted, all to read as follows:

18 **ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.**

19 **§22-16-11. Application for closure assistance.**

20 (a) The ~~director~~ secretary shall provide an application and
21 application procedure for all permittees of solid waste landfills
22 desiring to receive closure assistance under this article. ~~At a~~
23 ~~minimum the procedure shall require that:~~

24 ~~(1) The permittee of a landfill that does not have a liner~~
25 ~~system must submit its application no later than September 15,~~
26 ~~1992, except the permittee of a landfill that has been allowed to~~

1 ~~accept solid waste pursuant to the provisions of section seventeen,~~
2 ~~article fifteen of this chapter must submit its application no~~
3 ~~later than the eleven months following the expiration of the~~
4 ~~extension;~~

5 ~~(2) The permittee of a landfill that has only a single liner~~
6 ~~system must submit its application no later than eleven months~~
7 ~~following the date of closure of the landfill. and~~

8 ~~(3) The permittee of a landfill as provided for in subsection~~
9 ~~(g), section twelve, article sixteen of this chapter must submit~~
10 ~~its application for assistance on or before December 31, 2000:~~
11 ~~Provided, That no landfill is eligible for closure assistance if~~
12 ~~any portion of the landfill remains open or application is made for~~
13 ~~reopening with the Division of Environmental Protection or the~~
14 ~~Public Service Commission.~~

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

19 **§22-16-12. Solid Waste Facility Closure Cost Assistance Fund;**
20 **closure extension; reporting requirements.**

21 (a) The "Closure Cost Assistance Fund" ~~is continued~~ continues
22 as a special revenue account in the State Treasury. The fund ~~shall~~
23 ~~operate~~ operates as a special fund ~~whereby~~ in which all deposits
24 and payments ~~thereto~~ do not expire to the General Revenue Fund, but
25 ~~shall~~ remain in ~~such~~ the account and ~~be~~ are available for
26 expenditure in the succeeding fiscal year. Separate subaccounts may

1 be established within the special account for the purpose of
2 identification of various revenue resources and payment of specific
3 obligations.

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

6 (c) The fund consists of the following:

7 (1) Moneys collected and deposited in the State Treasury which
8 are specifically designated by Acts of the Legislature for
9 inclusion in the fund, including moneys collected and deposited
10 into the fund pursuant to section four of this article;

11 (2) Contributions, grants and gifts from any source, both
12 public and private, which may be used by the secretary for any
13 project or projects;

14 (3) Amounts repaid by permittees pursuant to section eighteen,
15 article fifteen of this chapter; and

16 (4) All interest earned on investments made by the state from
17 moneys deposited in this fund.

18 (d) The Solid Waste Management Board, upon written approval of
19 the secretary, has the authority to pledge all or ~~such~~ part of the
20 revenues paid into the Closure Cost Assistance Fund as ~~may be~~
21 needed to meet the requirements of any revenue bond issue or issues
22 of the Solid Waste Management Board authorized by this article,
23 including the payment of principal of, interest and redemption
24 premium, if any, on ~~such~~ the revenue bonds and the establishing and
25 maintaining of a reserve fund or funds for the payment of the
26 principal of, interest and redemption premium, if any, on ~~such~~ the

1 revenue bond issue or issues ~~when~~ where other moneys pledged may be
2 insufficient ~~therefor~~. Any pledge of moneys in the Closure Cost
3 Assistance Fund for revenue bonds ~~shall be~~ is a prior and superior
4 charge on ~~such~~ the fund over the use of any of the moneys in ~~such~~
5 the fund to pay for the cost of any project on a cash basis.
6 Expenditures from the fund, other than for the retirement of
7 revenue bonds, may only be made in accordance with this article.

8 (e) The amounts deposited in the fund may be expended only on
9 the cost of projects as provided ~~for~~ in sections three and fifteen
10 of this article, as provided in subsection (f) of this section and
11 for payment of bonds and notes issued pursuant to section five of
12 this article. No more than two percent of the annual deposits to
13 ~~such~~ the fund may be used for administrative purposes.

14 (f) Notwithstanding any provision of this article, upon
15 request of the Solid Waste Management Board, and with the approval
16 of the projects by the Secretary of the Department of Environmental
17 Protection, the secretary may pledge and place into escrow accounts
18 up to an aggregate of \$2,000,000 of the fund to satisfy two years
19 debt service requirement that permittees of publicly-owned landfills
20 and transfer stations are required to meet in order to obtain
21 loans. Pledges shall be made on a project-by-project basis, may not
22 exceed \$500,000 for a project and ~~shall be~~ are made available after
23 loan commitments are received. The secretary may pledge funds for
24 a loan only when the following conditions are met:

25 (1) The proceeds of the loan are used only to perform
26 construction of a transfer station or a composite liner system that

1 is required to meet title forty-seven, series thirty-eight, solid
2 waste management rules;

3 (2) The permittee dedicates all yearly debt service revenue,
4 as determined by the Public Service Commission, to meet the
5 repayment schedule of the loan, before it uses available revenue
6 for any other purpose; and

7 (3) That any funds pledged may only be paid to the lender if
8 the permittee is in default on the loan.

9 ~~(g) Any landfills which were ordered to close by December 31,~~
10 ~~1994, and which have been granted a certificate of need pursuant to~~
11 ~~subsection (b), section one c, article two, chapter twenty four of~~
12 ~~this code or section one-i of said article are hereby granted a~~
13 ~~closure extension until January 1, 1996. No landfill which closed~~
14 ~~on or before September 30, 1994, shall be eligible for such an~~
15 ~~extension. Notwithstanding any provision of this code to the~~
16 ~~contrary, the Elkins-Randolph County Landfill, located in Randolph~~
17 ~~County, and the Webster County Landfill, located in Webster County,~~
18 ~~are eligible for funds from the Solid Waste Facility Closure Cost~~
19 ~~Assistance Fund necessary to complete their closure upon the filing~~
20 ~~of appropriate application. Upon the filing of an appropriate~~
21 ~~application, the Department of Environmental Protection shall work~~
22 ~~with the applicant to ensure the application meets the department's~~
23 ~~requirements.~~

24 (h) The Department of Environmental Protection is required to
25 file, by January 1 of each ~~ensuing~~ year, an annual report with the
26 Joint Committee on Government and Finance providing details on the

1 manner in which the landfill closure assistance funds were expended
2 for the prior fiscal year.

3 ~~(i) Notwithstanding any other contrary provision of this code,~~
4 ~~the secretary shall place as a top priority to expend any and all~~
5 ~~funds derived from the Solid Waste Facility Closure Cost Assistance~~
6 ~~Fund necessary to facilitate the complete closure forthwith of the~~
7 ~~now defunct Gwinn or otherwise known as the Midwest Landfill,~~
8 ~~located in Summers County.~~