

1 **H. B. 4339**

2
3 (By Delegate Campbell)

4 [Introduced January 27, 2014; referred to the
5 Committee on the Judiciary then Finance.]

6
7 **FISCAL**
8 **NOTE**

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 ensuring that
12 moneys from the Solid Waste Authority Closure Cost Assistance
13 Fund are available to facilitate the closure of the Elkins-
14 Randolph County 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 shall provide an application and application
21 procedure for all permittees of solid waste landfills desiring to
22 receive closure assistance under this article. At a minimum the
23 procedure shall require that:

24 (1) The permittee of a landfill that does not have a liner

1 system must submit its application no later than September 15,
2 1992, except the permittee of a landfill that has been allowed to
3 accept solid waste pursuant to the provisions of section seventeen,
4 article fifteen of this chapter must submit its application no
5 later than the eleven months following the expiration of the
6 extension;

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

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

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

21 **§22-16-12. Solid Waste Facility Closure Cost Assistance Fund;**
22 **closure extension; reporting requirements.**

23 (a) The "Closure Cost Assistance Fund" ~~is continued~~ continues
24 as a special revenue account in the State Treasury. The fund ~~shall~~

1 ~~operate~~ operates as a special fund ~~whereby~~ in which all deposits
2 and payments ~~thereto~~ do not expire to the General Revenue Fund, but
3 ~~shall~~ remain in ~~such~~ the account and ~~be~~ are available for
4 expenditure in the succeeding fiscal year. Separate subaccounts may
5 be established within the special account for the purpose of
6 identification of various revenue resources and payment of specific
7 obligations.

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

10 (c) The fund consists of the following:

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

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

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

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

22 (d) The Solid Waste Management Board, upon written approval of
23 the secretary, has the authority to pledge all or ~~such~~ part of the
24 revenues paid into the Closure Cost Assistance Fund as ~~may be~~

1 needed to meet the requirements of any revenue bond issue or issues
2 of the Solid Waste Management Board authorized by this article,
3 including the payment of principal of, interest and redemption
4 premium, if any, on ~~such~~ the revenue bonds and the establishing and
5 maintaining of a reserve fund or funds for the payment of the
6 principal of, interest and redemption premium, if any, on ~~such~~ the
7 revenue bond issue or issues ~~when~~ where other moneys pledged may be
8 insufficient ~~therefor~~. Any pledge of moneys in the Closure Cost
9 Assistance Fund for revenue bonds ~~shall be~~ is a prior and superior
10 charge on ~~such~~ the fund over the use of any of the moneys in ~~such~~
11 the fund to pay for the cost of any project on a cash basis.
12 Expenditures from the fund, other than for the retirement of
13 revenue bonds, may only be made in accordance with this article.

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

20 (f) Notwithstanding any provision of this article, upon
21 request of the Solid Waste Management Board, and with the approval
22 of the projects by the Secretary of the Department of Environmental
23 Protection, the secretary may pledge and place into escrow accounts
24 up to an aggregate of \$2,000,000 of the fund to satisfy two years

1 debt service requirement that permittees of publicly-owned landfills
2 and transfer stations are required to meet in order to obtain
3 loans. Pledges shall be made on a project-by-project basis, may not
4 exceed \$500,000 for a project and ~~shall be~~ are made available after
5 loan commitments are received. The secretary may pledge funds for
6 a loan only when the following conditions are met:

7 (1) The proceeds of the loan are used only to perform
8 construction of a transfer station or a composite liner system that
9 is required to meet title forty-seven, series thirty-eight, solid
10 waste management rules;

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

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

17 (g) ~~Any landfills which were ordered to close by December 31,~~
18 ~~1994, and which have been granted a certificate of need pursuant to~~
19 ~~subsection (b), section one c, article two, chapter twenty-four of~~
20 ~~this code or section one-i of said article are hereby granted a~~
21 ~~closure extension until January 1, 1996. No landfill which closed~~
22 ~~on or before September 30, 1994, shall be eligible for such an~~
23 ~~extension. Notwithstanding any provision of this code to the~~
24 ~~contrary, the Elkins-Randolph County Landfill, located in Randolph~~

1 County, and the Webster County Landfill, located in Webster County,
2 are eligible for funds from the Solid Waste Facility Closure Cost
3 Assistance Fund necessary to complete their closure upon the filing
4 of appropriate application. Upon the filing of an appropriate
5 application, the Department of Environmental Protection shall work
6 with the applicant to ensure the application meets the department's
7 requirements.

8 (h) The Department of Environmental Protection is required to
9 file, by January 1 of each ~~ensuing~~ year, an annual report with the
10 Joint Committee on Government and Finance providing details on the
11 manner in which the landfill closure assistance funds were expended
12 for the prior fiscal year.

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

NOTE: The purpose of this bill is to require the Secretary of the Department of Environmental Protection to make money available in the Solid Waste Facility Closure Cost Assistance Fund to facilitate the complete closure of the Elkins-Randolph County Landfill and the Webster County Landfill.

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