

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Enrolled**

### **Senate Bill 153**

BY SENATORS JEFFRIES, STOLLINGS, LINDSAY,  
CLEMENTS, SMITH, BALDWIN, PLYMALE, IHLENFELD,  
HAMILTON, AND BOSO

[Passed March 7, 2019; in effect 90 days from passage]



1 AN ACT to amend and reenact §31-15A-10 of the Code of West Virginia, 1931, as amended,  
2 relating to the West Virginia Infrastructure and Jobs Development Council; increasing the  
3 percentage of the infrastructure fund that may be used for grants; providing authority to  
4 transfer additional funds designated to loans on to the grant program under certain  
5 circumstances; clarifying how funding assistance may be spent; and increasing the cap  
6 on annual spending that may be made on the preapplication process to project sponsors.

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

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

**§31-15A-10. Recommendations by council for expenditures of funds by loan, grant, or for  
engineering assistance.**

1 (a) To further accomplish the purpose and intent of this article, the Water Development  
2 Authority shall use the moneys in the Infrastructure Fund created pursuant to §31-15A-9 of this  
3 code, upon receipt of one or more recommendations from the council pursuant to §31-15A-5 of  
4 this code, to make loans, with or without interest, loan guarantees, or grants and to provide other  
5 assistance, financial, technical, or otherwise, to finance all or part of the costs of infrastructure  
6 projects or projects to be undertaken by a project sponsor: *Provided*, That any moneys disbursed  
7 from the Infrastructure Fund in the form of grants shall not exceed 25 percent of the total funds  
8 available for the funding of projects: *Provided, however*, That if on January 1 of any year, the  
9 amount available for grants in any congressional district is below \$150,000, the council may  
10 convert up to 30 percent of the funds available for loans in that congressional district to be used  
11 for grants within the congressional district, if and when needed to make an award. No loan, loan  
12 guarantee, grant, or other assistance shall be made or provided except upon a determination by  
13 the council that the loan, loan guarantee, grant, or other assistance and the manner in which it  
14 will be provided are necessary or appropriate to accomplish the purposes and intent of this article,

15 based upon an application submitted to the council: *Provided further*, That no grant shall be made  
16 to a project sponsor that is not a governmental agency or a not-for-profit corporation under the  
17 provisions of Section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for  
18 loans, loan guarantees, grants, or other assistance may be submitted by a project sponsor for  
19 one or more infrastructure projects on preliminary application forms prepared by the council  
20 pursuant to §31-15A-4 of this code. Any recommendation of the council approving a loan, loan  
21 guarantee, grant, or other assistance shall include a finding and determination by the council that  
22 the requirements of this section have been met. The council shall base any decisions to loan  
23 money for projects to project sponsors pursuant to this article solely on the need of the project  
24 sponsors.

25 (b) The council has the authority in its sole discretion to make grants to project sponsors  
26 if it finds that: (1) The level of rates for the users would otherwise be an unreasonable burden  
27 given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents  
28 funding of the project except through grants: *Provided*, That no project sponsor shall receive  
29 infrastructure grant money in an amount in excess of 50 percent of the total cost of the project.  
30 Therefore, the council may consider the economic or financial conditions of the area to be served.  
31 As a condition for receipt of a grant under this subsection, the council may require, in addition to  
32 any other conditions, that the applicant pursue other state or federal grant or loan programs. Upon  
33 a recommendation by the council, the Water Development Authority shall provide the grant in  
34 accordance with the recommendation. The council shall develop criteria to be considered in  
35 making grants to project sponsors which shall require consideration of the economic or financial  
36 conditions of the area to be served and the availability of other funding sources. The council shall  
37 adopt procedural rules regarding the manner in which grants will be awarded in conformity with  
38 this section. The procedural rules shall be adopted pursuant to §29A-3-1 *et seq.* of this code.

39 (c) Notwithstanding any other provision of this article to the contrary, the council shall apply  
40 a mandatory minimum end user utility rate that must be met by the project sponsor before funding

41 assistance may be awarded. The mandatory minimum end utility rate shall be based upon a  
42 uniform statewide percentage of the median household income in a particular geographic area  
43 and said rate shall not exceed six tenths of one percent. Funding assistance made from the  
44 Infrastructure Fund for loans and grants to projects, after transfers required to make the state  
45 match for the water and wastewater revolving loan programs pursuant to §22C-2-1, *et seq.* and  
46 §16-13C-1, *et seq.*, of this code, shall be provided by the council on a pro rata basis divided  
47 equally among the congressional districts of this state as delineated in accordance with §1-2-3 of  
48 this code: *Provided*, That infrastructure projects as defined in §31-15A-2(I) of this code shall not  
49 be subject to pro rata distribution. When determining median household income of a geographic  
50 area of the project to be served, the council shall consider any surveys of the income of the  
51 households that will be served by the project.

52 (d) No loan or grant funds may be made available for a project if the project to be funded  
53 will provide subsidized services to certain users in the service area of the project.

54 (e) Notwithstanding any other provision of this article to the contrary, engineering studies  
55 and requirements imposed by the council for preliminary applications shall not exceed those  
56 engineering studies and requirements which are necessary for the council to determine the  
57 economic feasibility of the project. If the council determines that the engineering studies and  
58 requirements for the preapplication would impose an undue hardship on any project sponsor, the  
59 council may provide funding assistance to project sponsors to defray the expenses of the  
60 preapplication process from moneys available in the Infrastructure Fund for making loans:  
61 *Provided*, That the council may only provide funding assistance in an amount equal to \$5,000 or  
62 50 percent of the total preapplication cost of the project, whichever amount is greater. If the project  
63 is ultimately approved for a loan by the council, the amount of funding assistance provided to the  
64 project sponsor for the preapplication process shall be included in the total amount of the loan to  
65 be repaid by the project sponsor. If the project is not ultimately approved by the council, then the  
66 amount of funding assistance provided to the project sponsor will be considered a grant by the

67 council and the total amount of the assistance shall be forgiven. In no event may the amount of  
68 funding assistance provided to all project sponsors exceed, in the aggregate, \$500,000 annually.

69 (f) The council shall report to the Governor, the Speaker of the House of Delegates, and  
70 the President of the Senate during each regular and interim session of the Legislature, on its  
71 activities and decisions relating to distribution or planned distribution of grants and loans under  
72 the criteria to be developed pursuant to this article.

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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 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 of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*