

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

Senate Bill 153

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

[Introduced January 10, 2019; Referred
to the Committee on Economic Development; and then to
the Committee on Finance]

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

15 necessary or appropriate to accomplish the purposes and intent of this article, based upon an
16 application submitted to the council: *Provided further*, That no grant shall be made to a project
17 sponsor that is not a governmental agency or a not-for-profit corporation under the provisions of
18 Section 501(c) of the Internal Revenue Code of 1986, as amended. Applications for loans, loan
19 guarantees, grants, or other assistance may be submitted by a project sponsor for one or more
20 infrastructure projects on preliminary application forms prepared by the council pursuant to §31-
21 15A-4 of this code. Any recommendation of the council approving a loan, loan guarantee, grant,
22 or other assistance shall include a finding and determination by the council that the requirements
23 of this section have been met. The council shall base any decisions to loan money for projects to
24 project sponsors pursuant to this article solely on the need of the project 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. ~~Provided, That funding~~ Funding
44 assistance made from the ~~proceeds of any general obligation bonds and revenue bonds issued~~
45 ~~after March 15, 1998~~ Infrastructure Fund for loans and grants to projects, after transfers required
46 to make the state match for the water and wastewater revolving loan programs pursuant to ~~article~~
47 ~~two, chapter twenty-two-c and article thirteen-c, chapter sixteen~~ §22C-2-1, et seq. and §16-13C-
48 1, et seq., of this code, shall be provided by the council on a pro rata basis divided equally among
49 the congressional districts of this state as delineated in accordance with ~~section three, article two,~~
50 ~~chapter one~~ §1-2-3 of this code: ~~Provided, however,~~ That infrastructure projects as defined in
51 ~~subsection (l), section two of this article~~ §31-15A-2(l) of this code shall not be subject to pro rata
52 distribution. When determining median household income of a geographic area of the project to
53 be served, the council shall consider any surveys of the income of the households that will be
54 served by the project.

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

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

67 project sponsor for the preapplication process shall be included in the total amount of the loan to
68 be repaid by the project sponsor. If the project is not ultimately approved by the council, then the
69 amount of funding assistance provided to the project sponsor will be considered a grant by the
70 council and the total amount of the assistance shall be forgiven. In no event may the amount of
71 funding assistance provided to all project sponsors exceed, in the aggregate, ~~\$100,000~~ \$500,000
72 annually.

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

NOTE: The purpose of this bill is to provide greater flexibility for making grants to infrastructure projects.

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