

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 561

FISCAL
NOTE

By Senators Jeffries and Woelfel

[Introduced February 03, 2023; referred
to the Committee on Agriculture and Natural
Resources; and then to the Committee on Finance]

1 A BILL to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the
2 Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new
3 article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, and §22-36-6 of
4 said code; to amend and reenact §22C-1-4 and §22C-1-8 of said code; to amend and
5 reenact §22C-2-2 of said code; and to amend said code by adding thereto a new article,
6 designated §22C-2A-1, §22C-2A-2, §22C-2A-3, §22C-2A-4, §22C-2A-5, §22C-2A-6,
7 §22C-2A-7, and §22C-2A-8, all relating to the administration of the West Virginia Drinking
8 Water Treatment Revolving Fund; modifying the Water Development Authority and Water
9 Development Board; removing mention of the federal Safe Drinking Water Act from an
10 area of code; providing for the state administration of the federal Safe Drinking Water Act;
11 and transferring state administration of the West Virginia Drinking Water Treatment
12 Revolving Fund from the Department of Health and Human Resources to the Department
13 of Environmental Protection.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 13C. DRINKING WATER TREATMENT REVOLVING FUND ACT.

§16-13C-1. Definitions.

1 [Repealed.]

**§16-13C-2. Designation of division of health as state instrumentality; rules; small systems;
disadvantaged communities.**

2 [Repealed.]

**§16-13C-3. Drinking water treatment revolving fund; duties of division of health and water
development authority; set-aside accounts.**

3 [Repealed.]

§16-13C-4. Management of funds.

4 [Repealed.]

§16-13C-5. Remedies to enforce payment.

5 [Repealed.]

§16-13C-6. Construction of article.

6 [Repealed.]

CHAPTER 22. ENVIRONMENTAL RESOURCES.

**ARTICLE 36. ADMINISTRATION OF THE WEST VIRGINIA DRINKING WATER
TREATMENT REVOLVING FUND.**

§22-36-1. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 (1) "Authority" means the water development authority provided for in §22C-1-4 of this
4 code.

5 (2) "Capacity development" means the technical, managerial and financial capability of a
6 public water system.

7 (3) "Cost" means the cost of all labor, materials, machinery, equipment, lands, property,
8 rights and easements, plans and specifications and all other expenses necessary or incident to the
9 acquisition, construction, improvement, expansion, extension, repair or rehabilitation of all or part
10 of a project.

11 (4) "Disadvantaged community" means the service area of a public water system that
12 meets affordability criteria established after public review and comment by the state.

13 (5) "Federal Safe Drinking Water Act" means the federal statute commonly known as the
14 "Safe Drinking Water Act", 42 U.S.C. 300f et seq., as enacted, amended, and as may be
15 subsequently amended.

16 (6) "Fund" means the West Virginia Drinking Water Treatment Revolving Fund created in

17 this article.

18 (7) "Instrumentality" means the Department of Environmental Protection which has the
19 primary responsibility for administering the fund and this article pursuant to requirements of the
20 Federal Safe Drinking Water Act.

21 (8) "Local entity" means any municipality, public utility, or person, including any individual,
22 firm, partnership, association, not-for-profit corporation or other corporation organized and
23 existing under the laws of the state which may construct and operate an eligible project.

24 (9) "Public water system" means that term as defined in §16-1-9a of this code.

25 (10) "Project" means a project for improving a drinking water system for the purpose of
26 achieving or maintaining compliance with applicable state and federal drinking water regulations.

27 (11) "Set-aside accounts" means those accounts that shall be set up for activities required
28 by the Federal Safe Drinking Water Act and the moneys for these accounts may be taken from the
29 federal capitalization grant for these nonproject activities before the capitalization grant is
30 deposited into the fund.

31 (12) "Small system" means a public water system serving ten thousand or fewer persons.

§22-36-2. Designation of Department of Environmental Protection as state instrumentality;
rules; small systems; disadvantaged communities.

1 (a) The Department of Environmental Protection shall act as the instrumentality that is
2 hereby empowered to enter into capitalization agreements with the United States Environmental
3 Protection Agency, to accept capitalization grant awards made under the Federal Safe Drinking
4 Water Act, and to direct the administration and management of the West Virginia Drinking Water
5 Treatment Revolving Fund created in this article in accordance with the requirements of federal
6 law.

7 (b) The Department of Environmental Protection shall propose rules for legislative
8 approval in accordance with provisions of §29A-3-1 et seq. of this code for the purpose of effecting
9 the administration of the provisions of this article. The rules shall include, but are not limited to,

10 establishing requirements for: (1) Capacity development; (2) environmental review; (3)
11 disadvantaged community designation; (4) receipt and disbursement of fund moneys; and (5)
12 establishment of a drinking water treatment revolving fund program to direct the financial
13 management of the fund to water systems and establish the interest rates and repayment terms of
14 the loans.

15 (c) Two percent of the annual federal capitalization grants made to this state shall be
16 utilized to provide technical assistance services for small systems to assist those systems in
17 maintaining compliance with the Federal Safe Drinking Water Act. The Department of
18 Environmental Protection shall enter into contracts to provide technical assistance services for
19 small systems with such nonprofit organizations that: (1) have a membership that represent at
20 least twenty-five percent of the small systems of this state; and (2) have at least five years
21 experience in providing on-site technical assistance to small systems.

22 (d) The Department of Environmental Protection shall, in accordance with the provisions of
23 the federal safe drinking water act, establish a program for loan subsidies to disadvantaged
24 communities. Thirty percent of the annual federal capitalization grants made to this state shall be
25 dedicated to the funding of projects for disadvantaged communities.

**§22-36-3. West Virginia Drinking Water Treatment Revolving Fund; duties of Department of
Environmental Protection and water development authority; set-aside accounts.**

1 (a) There is continued in the office of the State Treasurer a permanent and perpetual
2 special fund to be known as the "West Virginia Drinking Water Treatment Revolving Fund." The
3 fund shall be administered and managed in accordance with the provisions of the Federal Safe
4 Drinking Water Act by the Department of Environmental Protection. The Department of
5 Environmental Protection may draw all or a portion of those moneys available under capitalization
6 agreements and with the capitalization grant awards from the United States Environmental
7 Protection Agency under the Federal Safe Drinking Water Act and to deposit such moneys into the
8 fund and the set-aside accounts.

9 (b) The fund, less the set-aside account moneys, shall be administered and managed by
10 the water development authority under the direction of the Department of Environmental
11 Protection. The fund shall be comprised of moneys appropriated to the fund by the Legislature,
12 moneys allocated to the state by the federal government expressly for the purpose of establishing
13 and maintaining a drinking water treatment revolving fund and set-aside accounts, all receipts
14 from loans made from the fund, all income from the investment of moneys held in the fund, and all
15 other sums designated for deposits to the fund from any source, public or private. Moneys in the
16 fund shall be used solely to make loans or provide other allowable financial assistance to eligible
17 projects for public water systems, as described in the Federal Safe Drinking Water Act.

18 (c) In order to carry out the administration and management of the fund, the authority and
19 the Department of Environmental Protection are authorized to employ officers, employees,
20 agents, advisors and consultants, including attorneys, financial advisors, engineers, other
21 technical advisors and public accountants, and notwithstanding any provisions of this code to the
22 contrary, to determine their duties and compensation without the approval of any other agency or
23 instrumentality.

24 (d) The authority shall propose legislative rules for promulgation in accordance with the
25 provisions of §29A-3-1 et seq. of this code to govern the pledge of loans to secure bonds of the
26 authority.

27 (e) Disbursements from the fund shall be authorized for payment by the director of the
28 authority or the director's designee. Moneys in the fund shall not be commingled with other money
29 of the authority. If not needed for immediate use or disbursement, moneys in the fund may be
30 invested or reinvested by the authority in obligations or securities which are considered lawful
31 investments for public funds under this code.

32 (f) Pursuant to the provisions of the Federal Safe Drinking Water Act, set-aside accounts
33 shall be set up in accounts separate from the West Virginia Drinking Water Treatment Revolving
34 Fund. These set-aside accounts shall include, but not be limited to, administration costs, source

35 water protection, operator training and certification, technical assistance to systems, local
 36 assistance, and other state activities permitted by the Federal Safe Drinking Water Act. The
 37 Department of Environmental Protection shall establish and administer the set-aside accounts as
 38 permitted by the Federal Safe Drinking Water Act. An application fee may be charged and
 39 deposited into the administrative account to defray the cost of administering the program.

§22-36-4. Management of funds.

1 The authority shall manage the funds received pursuant to the provisions of this article for
 2 accounting purposes. The authority shall cause an audit of its books and accounts to be made at
 3 least once each fiscal year and the cost thereof may be defrayed as administrative expense under
 4 provisions of this article. The audit shall be conducted by a certified public accountant and provide
 5 an Auditor's opinion on the fund financial statements, a report on the internal controls and a report
 6 prepared in compliance with the provisions of the drinking water treatment revolving fund.

§22-36-5. Remedies to enforce payment.

1 (a) In order to ensure the timely payment of all sums due and owing to the fund under a
 2 revolving fund loan agreement made between the state and a local entity, and notwithstanding any
 3 provisions of this code to the contrary, the authority has and may, at its option, exercise the
 4 following rights and remedies in the event of any default by a local entity under a loan agreement:

5 (1) The authority may directly impose, in its own name and for its own benefit, service
 6 charges upon all users of a project funded by a loan distributed to a local entity pursuant to this
 7 article, and may proceed directly to enforce and collect the service charges, together with all
 8 necessary costs of the enforcement and collection.

9 (2) The authority may exercise, in its own name or in the name of and as the agent for a
 10 particular local entity, all of the rights, powers and remedies of the local entity with respect to the
 11 project or which may be conferred upon the local entity by statute, rule, regulation or judicial
 12 decision, including all rights and remedies with respect to users of the project funded by the loan
 13 distributed to that local entity pursuant to this article.

14 (3) The authority may, by civil action, mandamus or other judicial or administrative
15 proceeding, compel performance by a local entity of all the terms and conditions of the loan
16 agreement between the state and that local entity including:

17 (A) The adjustment of service charges as required to repay the loan or otherwise satisfy
18 the terms of the loan agreement;

19 (B) The enforcement and collection of service charges; and

20 (C) The enforcement by the local entity of all rights and remedies conferred by statute, rule,
21 regulation or judicial decision.

22 (b) The rights and remedies enumerated in this article are in addition to rights and
23 remedies conferred upon the authority by law or pursuant to the loan agreement.

§22-36-6. Construction of article.

1 The provisions of this article shall be liberally construed to the end that its beneficial
2 purposes may be affected. Insofar as the provisions of this article are inconsistent with the
3 provisions of any other general, special, or local law, the provisions of this article are controlling.

**CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS,
AUTHORITIES, COMMISSIONS AND COMPACTS.**

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

**§22C-1-4. Water Development Authority; Water Development Board; organization of
authority and board; appointment of board members; their term of office,
compensation and expenses; Director of Authority; compensation.**

1 (a) The Water Development Authority is continued. The authority is a governmental
2 instrumentality of the state and a body corporate. The exercise by the authority of the powers
3 conferred by this article and the carrying out of its purposes and duties are essential governmental
4 functions and for a public purpose.

5 (b) The authority is controlled, managed and operated by a seven-member board known

6 as the Water Development Board. The Governor or designee, the secretary of the Department of
7 Environmental Protection or designee and the ~~Commissioner of the Bureau for Public Health~~
8 director of the Department of Environmental Protection's Division of Water and Waste
9 Management or designee are members ex officio of the board. Four members are appointed by
10 the Governor, by and with the advice and consent of the Senate, for six-year terms, which are
11 staggered in accordance with the initial appointments under prior enactment of this section. In the
12 event of a vacancy, appointments are filled in the same manner as the original appointment for the
13 remainder of the unexpired term. A member continues to serve until the appointment and
14 qualification of the successor. More than two appointed board members may not at any one time
15 belong to the same political party. Appointed board members may be reappointed to serve
16 additional terms.

17 (c) All members of the board shall be citizens of the state. Each appointed member of the
18 board, before entering upon his or her duties, shall comply with the requirements of ~~article one,~~
19 ~~chapter six~~ §6-1-1 *et seq.* of this code and give bond in the sum of \$25,000 in the manner provided
20 in ~~article two of said chapter~~ §6-2-1 *et seq.* of said code. The Governor may remove any board
21 member for cause as provided in ~~article six of said chapter~~ §6-1-1 *et seq.* of said code.

22 (d) The Governor or designee serves as chair. The board annually elects one of its
23 appointed members as vice chair and appoints a secretary-treasurer, who need not be a member
24 of the board. Four members of the board is a quorum and the affirmative vote of four members is
25 necessary for any action taken by vote of the board. A vacancy in the membership of the board
26 does not impair the rights of a quorum by such vote to exercise all the rights and perform all the
27 duties of the board and the authority. The person appointed as secretary-treasurer, including a
28 board member if so appointed, shall give bond in the sum of \$50,000 in the manner provided in
29 ~~article two, chapter six~~ §6-2-1 *et seq.* of this code.

30 (e) The Governor or designee, the Secretary of the Department of Environmental
31 Protection and the ~~Commissioner of the Bureau for Public Health~~ director of the Department of

32 Environmental Protection's Division of Water and Waste Management do not receive
33 compensation for serving as board members. Each appointed member receives an annual salary
34 of \$12,000, payable at least twice per month. Each of the seven board members is reimbursed for
35 all reasonable and necessary expenses actually incurred in the performance of duties as a
36 member of the board in a manner consistent with guidelines of the Travel Management Office of
37 the Department of Administration. All expenses incurred by the board are payable solely from
38 funds of the authority or from funds appropriated for that purpose by the Legislature. Liability or
39 obligation is not incurred by the authority beyond the extent to which moneys are available from
40 funds of the authority or from such appropriations.

41 (f) There is a director of the authority appointed by the Governor, with the advice and
42 consent of the Senate, who serves at the Governor's will and pleasure. The director is responsible
43 for managing and administering the daily functions of the authority and for performing other
44 functions necessary to the effective operation of the authority. The compensation of the director is
45 fixed annually by the board.

§22C-1-8. Expenditure of funds for study and engineering of proposed projects.

1 With the approval and the consent of the board, ~~either the director~~ secretary of the ~~Division~~
2 Department of Environmental Protection ~~or the commissioner of the bureau of public health, or~~
3 ~~both of them,~~ shall expend, out of any funds available for the purpose, such moneys as are
4 necessary for the study of any proposed water development project and may use its engineering
5 and other forces, including consulting engineers and sanitary engineers, for the purpose of
6 effecting such study. All such expenses incurred by the ~~director or commissioner~~ secretary prior to
7 the issuance of water development revenue bonds or notes under this article shall be paid by the
8 ~~director or commissioner~~ secretary and charged to the appropriate water development project and
9 the ~~director and commissioner~~ secretary shall keep proper records and accounts, showing the
10 amounts so charged. Upon the sale of water development revenue bonds or notes for a water
11 development project, the funds so expended by the ~~director or commissioner~~ secretary, with the

12 approval of the authority, in connection with such project, shall be repaid to the Division
13 Department of Environmental Protection ~~or bureau of public health~~ from the proceeds of such
14 bonds or notes.

ARTICLE 2. WATER POLLUTION CONTROL REVOLVING FUND ACT.

**§22C-2-2. Designation of ~~division~~ department of environmental protection as state
instrumentality for purposes of capitalization agreements with the United States
environmental protection agency.**

1 The ~~Division~~ Department of Environmental Protection shall act as the instrumentality that
2 is empowered to enter into capitalization agreements with the United States environmental
3 protection agency, to accept capitalization grant awards made under the federal clean water act,
4 as amended, ~~the safe drinking water act, as amended,~~ and other federal laws and to otherwise
5 manage the fund provided for in this article in accordance with the requirements of said federal
6 laws.

**ARTICLE 2A. WEST VIRGINIA DRINKING WATER TREATMENT REVOLVING FUND
ACT.**

§22C-2A-1. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 (a) "Authority" means the Water Development Authority provided for in §22C-1-4 of this
4 code.

5 (b) "Cost" as applied to any project financed under the provisions of this article means the
6 total of all costs incurred by a local entity that are reasonable and necessary for carrying out all
7 works and undertakings necessary or incident to the accomplishment of any project including:

8 (1) Developmental, planning and feasibility studies, surveys, plans and specifications;

9 (2) Architectural, engineering, financial, legal or other special services;

10 (3) Acquisition of land and any buildings and improvements on the land or buildings,
11 including the discharge of any obligations of the sellers of the land, buildings or improvements;

12 (4) Site preparation and development, including demolition or removal of existing
13 structures, construction and reconstruction, labor, materials, machinery and equipment;

14 (5) The reasonable costs of financing incurred by the local entity in the course of the
15 development of the project, carrying charges incurred before placing the project in service, interest
16 on funds borrowed to finance the project to a date subsequent to the estimated date the project is
17 to be placed in service, necessary expenses incurred in connection with placing the project in
18 service and the funding of accounts and reserves which the authority may require; and

19 (6) Other items that the Department of Environmental Protection determines to be
20 reasonable and necessary.

21 (c) "Fund" means the state West Virginia Drinking Water Treatment Revolving Fund
22 provided for in this article as it may be expanded or modified, from time to time, pursuant to the
23 Federal Safe Drinking Water Act, 42 U.S.C. § 300f through § 300j-27, inclusive, as amended, or by
24 the executive order of the Governor issued to comply with federal laws relating to the acts.

25 (d) "Instrumentality" means the Department of Environmental Protection or the agency
26 designated by an order of the Governor as having the primary responsibility for administering the
27 fund pursuant to the Federal Safe Drinking Water Act 42 U.S.C. § 300f through § 300j-27,
28 inclusive, as amended, or other federal laws.

29 (e) "Local entity" means any county, city, town, municipal corporation, authority, district,
30 public service district, commission, banking institution, political subdivision, regional governmental
31 authority, state government agency, interstate agency or not-for-profit association or corporation in
32 West Virginia.

33 (f) "Project" means any water or wastewater treatment facility located or to be located in or
34 outside this state by a local entity and includes:

35 (1) A project for improving a drinking water system for the purpose of achieving or

36 maintaining compliance with applicable state and federal drinking water regulations or rules;

37 (2) Administrative, maintenance, storage and laboratory facilities related to the facilities
38 delineated in subdivision (1) of this subsection;

39 (3) Interests in land related to the facilities delineated in subdivision (1) of this subsection;

40 and

41 (4) Other projects allowable under federal law.

§22C-2A-2. Designation of the Department of Environmental Protection as state instrumentality for purposes of capitalization agreements with the United States Environmental Protection Agency.

1 The Department of Environmental Protection shall act as the instrumentality that is
2 empowered to enter into capitalization agreements with the United States Environmental
3 Protection Agency, to accept capitalization grant awards made under the Federal Safe Drinking
4 Water Act, 42 U.S.C. § 300f through § 300j-27, inclusive, as amended, and other federal laws and
5 to otherwise manage the fund provided for in this article in accordance with the requirements of
6 said federal laws.

§22C-2A-3. West Virginia Drinking Water Treatment Revolving Fund; disbursement of fund moneys; administration of the fund.

1 (a) Under the direction of the Department of Environmental Protection, the Water
2 Development Authority shall administer, continue, and manage the permanent and perpetual fund
3 known as the "West Virginia Drinking Water Treatment Revolving Fund". The fund shall be
4 comprised of moneys appropriated to the fund by the Legislature, moneys allocated to the state by
5 the federal government expressly for the purposes of establishing and maintaining a drinking
6 water treatment revolving fund, all receipts from loans made from the fund to local entities, all
7 income from the investment of moneys held in the fund, and all other sums designated for deposits
8 to the fund from any source, public or private. Moneys in the fund shall be used solely to make
9 loans to local entities to finance or refinance the costs of a project: *Provided*, That moneys in the

10 fund shall be utilized to defray the costs incurred by the authority and the Department of
11 Environmental Protection in administering the provisions of this article: *Provided, however,* That
12 moneys in the fund shall be used to make grants for projects to the extent allowed or authorized by
13 federal law.

14 (b) The secretary of the Department of Environmental Protection, in consultation with the
15 authority, shall promulgate legislative rules in accordance with the provisions of §229A-3-1 *et seq.*
16 of this code, to:

17 (1) Govern the disbursement of moneys from the fund; and

18 (2) Continue the West Virginia Drinking Water Treatment Revolving Fund program to direct
19 the distribution of grants or loans from the fund to particular local entities and establish the interest
20 rates and repayment terms of the loans.

21 (c) In order to carry out the administration and management of the fund, the authority is
22 authorized to employ officers, employees, agents, advisers and consultants, including attorneys,
23 financial advisers, engineers, other technical advisers and public accountants and,
24 notwithstanding any provisions of this code to the contrary, to determine their duties and
25 compensation without the approval of any other agency or instrumentality.

26 (d) The authority shall promulgate legislative rules in accordance with the provisions of
27 §29A-3-1 *et seq.* of this code to govern the pledge of loans to secure bonds of the authority.

28 (e) All moneys belonging to the fund shall be kept in appropriate depositories and secured
29 in conformance with this code. Disbursements from the fund shall be authorized for payment by
30 the director of the authority or the secretary's designee. Any depository or officer of the depository
31 to which moneys of the fund are paid shall act as trustee of the moneys and shall hold and apply
32 them solely for the purposes for which the moneys are provided under this article. Moneys in the
33 fund shall not be commingled with other money of the authority. If not needed for immediate use or
34 disbursement, moneys in the fund may be invested or reinvested by the authority in obligations or
35 securities which are considered lawful investments for public funds under this code.

§22C-2A-4. Annual audit.

1 The authority shall cause an audit of its books and accounts to be made at least once each
2 fiscal year by certified public accountants, and the cost thereof may be defrayed as a part of the
3 cost of construction of a project or as an administrative expense under the provisions of
4 subsection (a), section three of this article.

§22C-2A-5. Collection of money due to the fund.

1 (a) In order to ensure the timely payment of all sums due and owing to the fund under a
2 revolving fund loan agreement between the state and a local entity, and notwithstanding any
3 provisions of this code to the contrary, the authority has and may, at its option, exercise the
4 following rights and remedies in the event of any default by a local entity under a loan agreement:

5 (1) The authority may directly impose, in its own name and for its own benefit, service
6 charges upon all users of a project funded by a loan distributed to a local entity pursuant to this
7 article and may proceed directly to enforce and collect the service charges, together with all
8 necessary costs of the enforcement and collection.

9 (2) The authority may exercise, in its own name or in the name of and as the agent for a
10 particular local entity, all of the rights, powers and remedies of the local entity with respect to the
11 project or which may be conferred upon the local entity by statute, rule, regulation or judicial
12 decision, including all rights and remedies with respect to users of the project funded by the loan
13 distributed to that local entity pursuant to this article.

14 (3) The authority may, by civil action, mandamus or other judicial or administrative
15 proceeding, compel performance by a local entity of all of the terms and conditions of the loan
16 agreement between the state and that local entity including:

17 (A) The adjustment of service charges as required to repay the loan or otherwise satisfy
18 the terms of the loan agreement;

19 (B) The enforcement and collection of service charges; and

20 (C) The enforcement by the local entity of all rights and remedies conferred by statute, rule,

21 regulation or judicial decision. The rights and remedies enumerated in this section are in addition
22 to rights and remedies conferred upon the authority by law or pursuant to the loan agreement.

23 (b) For loans made for projects defined in subdivision (6), subsection (f), section one of this
24 article, at the direction of the Department of Environmental Protection, the authority shall take a
25 security or other interest in real or personal property with the right to foreclose upon a default to
26 secure loans made from the fund.

§22C-2A-6. State construction grants program continued; special fund.

1 (a) The secretary of the Department of Environmental Protection shall promulgate rules in
2 accordance with the provisions of §29A-1-1 et seq. of this code of this code to continue the state
3 construction grants program that is designed to complement and supplement the West Virginia
4 Drinking Water Treatment Revolving Fund program established pursuant to subsection (b),
5 section three of this article.

6 (b) The special fund designated "The West Virginia Construction Grants Fund" established
7 in the State Treasury is continued. The special fund shall be comprised of moneys appropriated to
8 said fund by the Legislature, assessments on existing drinking water treatment facilities, and all
9 other sums designated for deposit to the special fund from any source, public or private: *Provided,*
10 That such assessments shall be made and collected in accordance with fee schedules to be
11 established by legislative rules promulgated by the secretary of the Department of Environmental
12 Protection, in accordance with §29A-1-1 et seq. of this code. Moneys in the special fund shall be
13 used solely for the state construction grants program established under subsection (a) of this
14 section and for the Water Pollution Control Revolving Fund Act provided for in §22C-2-1 et seq. of
15 this code: *Provided, however,* That moneys in the special fund may be utilized to defray the costs
16 incurred by the Department of Environmental Protection in administering the provisions of this
17 section.

§22C-2A-7. Environmental review of funded projects.

1 (a) The Department of Environmental Protection shall conduct an environmental review on

2 each project funded under this article. The secretary of the Department of Environmental
 3 Protection shall promulgate legislative rules in accordance with the provisions of §29A-3-1 et seq.
 4 of this code of this code to implement the environmental review of funded projects: *Provided*, That
 5 the rules shall be consistent with the regulations promulgated by the United States Environmental
 6 Protection Agency pursuant to the Federal Safe Drinking Water Act, 42 U.S.C. § 300f through §
 7 300j-27, inclusive, as amended.

8 (b) The secretary of the Department of Environmental Protection is authorized to direct a
 9 local entity, or its agent, to implement all measures that, in the judgment of the secretary, are
 10 necessary in order to mitigate or prevent adverse impacts to the public health, safety or welfare or
 11 to the environment that may result from a project funded under this article. The secretary is further
 12 authorized to require all projects to comply with all other appropriate federal laws and regulations
 13 that are required of the projects under the Federal Safe Drinking Water Act, 42 U.S.C. § 300f
 14 through § 300j-27, inclusive, as amended.

§22C-2A-8. Conflicting provisions.

1 The provisions of this article shall be liberally construed to the end that its beneficial
 2 purposes may be effectuated. Insofar as the provisions of this article are inconsistent with the
 3 provisions of any other general, special or local law, the provisions of this article are controlling.

NOTE: The purpose of this bill is to relate to the administration of the West Virginia Drinking Water Treatment Revolving Fund. The bill modifies the Water Development Authority and Water Development Board. The bill removes a reference of the federal Safe Drinking Water Act from an area of code. The bill provides for the state administration of the federal Safe Drinking Water Act. Finally, the bill transfers state administration of the West Virginia Drinking Water Treatment Revolving Fund from the Department of Health and Human Resources to the Department of Environmental Protection.

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