

1 **ENROLLED**

2 **Senate Bill No. 676**

3 (BY SENATORS PREZIOSO, D. FACEMIRE, CHAFIN, EDGELL, GREEN, HELMICK, LAIRD,  
4 MCCABE, MILLER, PLYMALE, STOLLINGS, UNGER, WELLS, YOST, BOLEY, HALL AND  
5 SYPOLT)

6 \_\_\_\_\_  
7 [Passed March 9, 2012; in effect from passage.]  
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10 AN ACT to amend and reenact §31-15A-17b of the Code of West  
11 Virginia, 1931, as amended, relating to Chesapeake Bay  
12 watershed compliance projects; and specifying dates by which  
13 eligible projects may apply for grant funding.

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

15 That §31-15A-17b of the Code of West Virginia, 1931, as  
16 amended, be amended and reenacted to read as follows:

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

19 **§31-15A-17b. Infrastructure lottery revenue bonds for watershed**  
20 **compliance projects.**

21 (a) (1) The Chesapeake Bay has been identified as an impaired  
22 water body due to excessive nutrients entering the Bay from various  
23 sources in six states, including wastewater facilities in West  
24 Virginia. To restore the Chesapeake Bay, the states have agreed to

1 reduce their respective nutrient contributions to the Chesapeake  
2 Bay.

3 (2) The Greenbrier River Watershed in southeastern West  
4 Virginia which encompasses approximately 1,646 square miles, the  
5 majority of which lies within Pocahontas, Greenbrier, Monroe and  
6 Summers counties, has been identified as an impaired water body due  
7 to excessive levels of fecal coliform and phosphorus entering the  
8 Watershed from various sources, including wastewater facilities in  
9 West Virginia. To restore the Greenbrier River Watershed, the  
10 state agrees to reduce the fecal coliform and phosphorus  
11 contributions to the Greenbrier River Watershed.

12 (b) Notwithstanding any other provision of this code to the  
13 contrary, the Water Development Authority may issue, in accordance  
14 with the provisions of section seventeen of this article,  
15 infrastructure lottery revenue bonds payable from the West Virginia  
16 infrastructure lottery revenue debt service fund created by section  
17 nine of this article and such other sources as may be legally  
18 pledged for such purposes other than the West Virginia  
19 infrastructure revenue debt service fund created by section  
20 seventeen of this article.

21 (c) The council shall direct the Water Development Authority  
22 to issue bonds in one or more series when it has approved  
23 Chesapeake Bay watershed compliance projects and Greenbrier River  
24 watershed compliance projects with an authorized permitted flow of

1 four hundred thousand gallons per day or more. The proceeds of the  
2 bonds shall be used solely to pay costs of issuance, fund a debt  
3 service reserve account, capitalize interest, pay for security  
4 instruments necessary to market the bonds and to make grants to  
5 governmental instrumentalities of the state for the construction of  
6 approved Chesapeake Bay watershed compliance projects and  
7 Greenbrier River watershed compliance projects. To the extent  
8 funds are available in the West Virginia Infrastructure Lottery  
9 Revenue Debt Service Fund that are not needed for debt service, the  
10 council may direct the Water Development Authority to make grants  
11 to project sponsors for the design or construction of approved  
12 Chesapeake Bay watershed compliance projects and Greenbrier River  
13 watershed compliance projects: *Provided*, That the council shall  
14 direct the water development authority to provide from monies in  
15 the Lottery Revenue Debt Service Fund not needed to pay debt  
16 service in fiscal year 2013 a grant of \$6 million to a Chesapeake  
17 Bay watershed compliance project which opened bids on December 28,  
18 2011 and further provided that such Chesapeake Bay watershed  
19 compliance project shall receive no further grant funding under  
20 this section after receipt of the \$6 million grant.

21 (d) No later than June 30, 2012, each publicly owned facility  
22 with an authorized permitted flow of 400,000 gallons per day or  
23 more that is subject to meeting Chesapeake Bay compliance standards  
24 or Greenbrier River watershed compliance standards shall submit to

1 the council a ten year projected capital funding plan for  
2 Chesapeake Bay watershed compliance projects or Greenbrier River  
3 watershed compliance projects, as the case may be, including a  
4 general project description, cost estimate and estimated or actual  
5 project start date and project completion date, if any. The  
6 council shall timely review the submitted capital funding plans and  
7 forward approved plans to the Water Development Authority for  
8 further processing and implementation pursuant to this article. If  
9 the council finds a plan to be incomplete, inadequate or otherwise  
10 problematic, it shall return the plan to the applicant with comment  
11 on the plan shortcomings. The applicant may then resubmit to  
12 council an amended capital funding plan for further consideration  
13 pursuant to the terms of this subsection.

14 (e) Upon approval, each proposed Chesapeake Bay watershed  
15 compliance project or Greenbrier River watershed compliance  
16 project, or portion of a larger project, which portion is dedicated  
17 to compliance with nutrient standards, or fecal coliform and  
18 phosphorus standards, established for the protection and  
19 restoration of the Chesapeake Bay or the Greenbrier River  
20 Watershed, as the case may be, shall be eligible for grant funding  
21 by funds generated by the infrastructure lottery revenue bonds  
22 described in section (b) of this section. At the request of the  
23 applicant, the remaining percentage of project funding not

1 otherwise funded by grant under the provisions of this article may  
2 be reviewed as a standard project funding application.

3 (f) No later than December 1, 2012, the Water Development  
4 Authority shall report to the Joint Committee on Government and  
5 Finance the total cost of Chesapeake Bay watershed compliance  
6 projects and the Greenbrier River watershed compliance projects and  
7 the proposed grant awards for each eligible project. Grant awards  
8 shall be of equal ratio among all applicants of the total cost of  
9 each eligible project.

10 (g) Eligible projects that have obtained project financing  
11 prior to December 31, 2012, may apply to the council for funding  
12 under the provisions of this section. These applications shall be  
13 processed and considered as all other eligible projects, and a  
14 grant funding awarded shall, to the extent allowed by law, be  
15 dedicated to prepay all or a portion of debt previously incurred by  
16 governmental instrumentalities of the state for required Chesapeake  
17 Bay nutrient removal projects or Greenbrier River watershed fecal  
18 coliform and phosphorus removal projects, subject to the bond  
19 covenants and contractual obligations of the borrowing governmental  
20 entity. However, any private portion of funding provided by  
21 agreement between a political subdivision and one or more private  
22 entities, either by direct capital investment or debt service  
23 obligation, shall not be eligible for grant funding under the  
24 provisions of this article.

