

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4469

BY DELEGATES HARDY, QUEEN, CRISS, BARRETT, REED,

HOTT, WESTFALL, KESSINGER, AND HAYNES

[Introduced January 31, 2022; referred

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 administration of the Infrastructure Fund; and how assistance from the fund is
3 provided for or the water and wastewater revolving loan programs.

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 10ths of one percent. Funding Effective April 1, 2022, assistance

44 shall be made from the Infrastructure Fund for loans and grants to projects, after transfers required
45 to make the state match for the water and wastewater revolving loan programs pursuant to §22C-
46 2-1, *et seq.* and §16-13C-1, *et seq.*, of this code: ~~shall be provided by the council on a pro rata~~
47 ~~basis divided equally among the congressional districts of this state as delineated in accordance~~
48 ~~with §1-2-3 of this code~~ *Provided*, That infrastructure projects as defined in §31-15A-2(l) of this
49 code shall not be subject to pro rata distribution. When determining median household income of
50 a geographic area of the project to be served, the council shall consider any surveys of the income
51 of the 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.

73 (g) The amendment to this section shall be effective on passage.

NOTE: The purpose of this bill is to provide how assistance is provided for water and wastewater revolving loan programs by the Infrastructure Fund. It also provides that the bill amendment is effective from passage.

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