

VIRGINIA ACTS OF ASSEMBLY -- 2007 RECONVENED SESSION

CHAPTER 851

An Act to amend the Code of Virginia by adding a section numbered 10.1-1186.01, relating to reimbursement to localities of funds for upgrades of publicly owned treatment works and authorizing the use of proceeds from Virginia Public Building Authority bonds to fund water quality improvement grants.

[H 1710]

Approved April 4, 2007

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1186.01 as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, or as eligible nonsignificant dischargers as defined in § 10.1-2117. Notwithstanding § 10.1-2128, at such time as grant disbursements pursuant to this section reach 200 percent of the appropriations provided for in Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance shall review the future funding needs to meet the purposes of the Water Quality Improvement Act and the appropriate funding mechanism for such needs.

B. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E and eligible nonsignificant dischargers shall be made as follows: (i) the first phase of a grant shall be disbursed upon written certification that 25% of the local share of the cost of nutrient removal technology for the project has been expended; (ii) the second phase upon written certification that 50% of the local share of the cost of nutrient removal technology for the project has been expended; (iii) the third phase upon written certification that 75% of the local share of the cost of the nutrient removal technology for the project has been expended; and (iv) the final phase upon written certification that 100% of the local share of the cost of the construction, expansion, or upgrade of nutrient removal technology for the project has been expended. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from 50% completion of construction to final completion of construction.

C. The General Assembly shall have the sole authority to determine whether disbursement will be made pursuant to subdivision B 1, B 2, or B 3, or a combination thereof; provided that a disbursement shall only be made pursuant to subdivision B 3 upon a certification by the Department of Environmental Quality that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

D. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I.

E. The disbursement of grants to finance the costs of design and installation of nutrient removal technology at the following 89 publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. However, in no case shall any publicly owned treatment works receive a grant of less than 35% of the costs of the design and installation of nutrient removal technology.

FACILITY NAME

OWNER

Shenandoah - Potomac River Basin

ACSA-Fishersville STP

Augusta County Service Authority

Luray STP	Town of Luray
ACSA-Middle River Regional STP	Augusta County Service Authority
HRRSA-North River WWTF	Harrisonburg-Rockingham Regional Sewer Authority
ACSA-Stuarts Draft STP	Augusta County Service Authority
Waynesboro STP	City of Waynesboro
ACSA-Weyers Cave STP	Augusta County Service Authority
Berryville STP	Town of Berryville
Front Royal STP	Town of Front Royal
Mount Jackson STP	Town of Mount Jackson
New Market STP	Town of New Market
Shenandoah Co.-North Fork Regional WWTP	Shenandoah County
Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
Strasburg STP	Town of Strasburg
Woodstock STP	Town of Woodstock
FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
Purcellville-Basham Simms WWTF	Town of Purcellville
LCSA-Broad Run WRF	Loudoun County Service Authority
Leesburg WPCF	Town of Leesburg
Round Hill WWTP	Town of Round Hill
PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
Arlington Co. WPCF	Arlington County
Fairfax Co. - Noman-Cole Pollution Control Facility	Fairfax County
Stafford Co.-Aquia WWTP	Stafford County
Colonial Beach STP	Town of Colonial Beach
Dahlgren Sanitary District WWTP	King George County Service Authority
Fairview Beach STP	King George County Service Authority
Purkins Corner WWTP	King George County Service Authority
District of Columbia - Blue Plains STP (Virginia portion)	Loudoun County Service Authority and Fairfax County contract for capacity
Rappahannock River Basin	
Culpeper WWTP	Town of Culpeper
Marshall WWTP	Town of Marshall
Mountain Run WWTP	Culpeper County
Orange STP	Town of Orange
Rapidan STP	Rapidan Service Authority
FCW&SA-Remington WWTP	Fauquier County Water and Sewer Authority
Warrenton STP	Town of Warrenton
Wilderness Shores WWTP	Rapidan Service Authority
Spotsylvania Co.-FMC WWTF	Spotsylvania County

Fredericksburg WWTF	City of Fredericksburg
Stafford Co.-Little Falls Run WWTF	Stafford County
Spotsylvania Co.-Massaponax WWTF	Spotsylvania County
Montross-Westmoreland WWTP	Westmoreland County
Oakland Park STP	King George County Service Authority
Tappahannock WWTP	Town of Tappahannock
Urbanna WWTP	Hampton Roads Sanitation District
Warsaw STP	Town of Warsaw
Reedville Sanitary District WWTP	Reedville Sanitary District
Kilmarnock WWTP	Town of Kilmarnock
York River Basin	
Caroline Co. Regional STP	Caroline County
Gordonsville STP	Rapidan Service Authority
Ashland WWTP	Hanover County
Doswell WWTP	Hanover County
HRSD-York River STP	Hampton Roads Sanitation District
Parham Landing WWTP	New Kent County
Totopotomoy WWTP	Hanover County
HRSD-West Point STP	Hampton Roads Sanitation District
HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
James River Basin	
Buena Vista STP	City of Buena Vista
Clifton Forge STP	Town of Clifton Forge
Covington STP	City of Covington
Lexington-Rockbridge Regional WQCF	Maury Service Authority
Alleghany Co.-Low Moor STP	Alleghany County
Alleghany Co.-Lower Jackson River WWTP	Alleghany County
Amherst-Rutledge Creek WWTP	Town of Amherst
Lynchburg STP	City of Lynchburg
RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
Crewe WWTP	Town of Crewe
Farmville WWTP	Town of Farmville
Chesterfield Co.-Falling Creek WWTP	Chesterfield County
Henrico Co. WWTP	Henrico County
Hopewell Regional WWTF	City of Hopewell
Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
Richmond WWTP	City of Richmond
South Central Wastewater Authority WWTF	South Central Wastewater Authority
Chickahominy WWTP	New Kent County
HRSD-Boat Harbor STP	Hampton Roads Sanitation District
HRSD-James River STP	Hampton Roads Sanitation District
HRSD-Williamsburg STP	Hampton Roads Sanitation District
HRSD-Nansemond STP	Hampton Roads Sanitation District
HRSD-Army Base STP	Hampton Roads Sanitation District
HRSD-Virginia Initiative Plant STP	Hampton Roads Sanitation District
HRSD-Chesapeake/Elizabeth STP	Hampton Roads Sanitation District
Eastern Shore Basin	
Cape Charles WWTP	Town of Cape Charles
Onancock WWTP	Town of Onancock
Tangier Island WWTP	Town of Tangier

F. To the extent that any publicly owned treatment works receives less than the grant specified pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the funding of those projects for which grants have been prorated. Any additional reimbursements to

these prorated projects shall not exceed the total reimbursement amount due pursuant to the formula established in subsection E of § 10.1-2131.

G. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department of Environmental Quality shall not be required to enter into a grant agreement with a facility designated as a significant discharger or eligible nonsignificant discharger if the Director determines that the use of nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient controls for the facility in question.

2. That the Department of Environmental Quality shall identify and evaluate options to ensure the efficient use of any grants authorized by the Water Quality Improvement Act (§ 10.1-2117 et seq. of the Code of Virginia). Any grant issued after October 1, 2007, shall include policies and guidelines governing the use of such grants that include the enforcement of appropriate cost control measures for the use of the grants. The Department shall work with representatives from local governments and the conservation community to evaluate the optimal use of existing and potential cost control measures, including but not limited to (i) evaluation of eligible and appropriate costs, (ii) applicability of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia), (iii) voluntary nutrient credit trading, (iv) basing grant amounts on facility optimization using full life-cycle cost evaluation, (v) the ability to limit or exclude reimbursements based upon a comparison of costs to upgrade or build versus the purchase of credits, and (vi) the ability to prioritize grant agreements based upon the river-basin optimization plans. Such policies and procedures shall be developed no later than October 1, 2007.

3. That based upon a determination by the General Assembly pursuant to subsection C of § 10.1-1186.01 of the Code of Virginia to distribute the grants for the design and installation of nutrient removal technology at publicly owned treatment works designated as significant dischargers or as eligible nonsignificant dischargers as defined in § 10.1-2117 of the Code of Virginia through the use of bonds as provided for in subdivision B 3 of § 10.1-1186.01, the Virginia Public Building Authority is authorized to fund certain Water Quality Improvement Grants through the issuance of bonds as follows:

§ 1. Pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264 of the Code of Virginia, the Virginia Public Building Authority is hereby authorized to finance certain Virginia Water Quality Improvement Grants pursuant to Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia, through the issuance of bonds, without limitation and together with other available funds. Such grants shall be used exclusively to fund a portion of some or all of the acquisition, design, construction, installation, equipping, improvement, or renovation of nutrient removal technology for significant dischargers contained in § 2 of this enactment and eligible nonsignificant dischargers as defined in § 10.1-2117 of the Code of Virginia.

§ 2. The Virginia Public Building Authority is authorized to take any and all necessary, proper, or convenient steps and to exercise any and all powers granted to it by law to carry out the undertaking and financing contemplated by the provisions of this enactment, including the power to finance grants to fund a portion of the costs of any or all of the projects set forth in this act by the issuance of revenue bonds from time to time in an aggregate principal amount not to exceed \$250 million, plus amounts needed to fund issuance costs, reserve funds, original issue discount, and other financing expenses.

§ 3. The net proceeds of Virginia Public Building Authority bonds shall finance Virginia Water Quality Improvement Grants to fund or reimburse approved capital costs for each such project as and to the extent determined by the Department of Environmental Quality pursuant to the provisions of this enactment and of Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia, including but not limited to the qualifications of projects for Virginia Water Quality Improvement Grants as set forth in §§ 10.1-2129, 10.1-2130, and 10.1-2131 and in written guidelines developed by the Secretary of Natural Resources in accordance with § 10.1-2129. Bond proceeds may not be used to pay debt service on obligations of regional or local governments or authorities. A separate account shall be maintained for the grants under this enactment and for bonds issued to finance such grants. Upon certification to the Authority by the Department of Environmental Quality that a project qualifies for a grant under the provisions of this act and the provisions of Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia and of the proposed amount and purpose of such grant, the Authority shall cause the disbursement of bond proceeds to fund such grant, but only to the extent of available funds therefore.

§ 4. The proceeds of such bonds are hereby appropriated for disbursement from the state treasury pursuant to Article X, Section 7 of the Constitution of Virginia, and § 2.2-1819 of the Code of Virginia. Grants funded with proceeds of the bonds will be deposited in a separate account in the Virginia Water Quality Improvement Fund, pursuant to § 10.1-2128 of the Code of Virginia, which authorizes such Fund to consist of such other sums as may be made available to it from any other source, public or private. The general conditions and general provisions of a general appropriation act enacted by the General Assembly, in effect from time to time, and all of the terms and conditions contained therein shall apply to the capital projects listed in this act.

§ 5. No bonds authorized pursuant to this enactment shall be issued prior to July 1, 2008.

4. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remainder hereof but shall be confined to the clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which such judgment shall have been rendered, and to this end the provisions of this act are severable.

5. That all bonds issued heretofore by the Virginia Public Building Authority to provide funds to pay for all or any portion of the cost of one or more projects or portion thereof are hereby validated, ratified, approved, and confirmed.