

VIRGINIA ACTS OF ASSEMBLY -- 2007 RECONVENED SESSION

CHAPTER 900

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.

[S 771]

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 percent 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 percent 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 percent 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 percent 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 percent 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 percent of the costs of the design and installation of nutrient removal technology.

FACILITY NAME

OWNER

Shenandoah - Potomac River Basin

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

Rappahannock River Basin

<i>Culpeper WWTP</i>	<i>Town of Culpeper</i>
<i>Marshall WWTP</i>	<i>Town of Marshall</i>
<i>Mountain Run WWTP</i>	<i>Culpeper County</i>
<i>Orange STP</i>	<i>Town of Orange</i>
<i>Rapidan STP</i>	<i>Rapidan Service Authority</i>

FCW&SA-Remington WWTP

Warrenton STP

Wilderness Shores WWTP

Spotsylvania Co.-FMC WWTF

Fredericksburg WWTF

Stafford Co.-Little Falls Run WWTF

Spotsylvania Co.-Massaponax WWTF

Montross-Westmoreland WWTP

Oakland Park STP

Tappahannock WWTP

Urbanna WWTP

Warsaw STP

Reedville Sanitary District WWTP

Kilmarnock WWTP

York River Basin

Caroline Co. Regional STP

Gordonsville STP

Ashland WWTP

Doswell WWTP

HRSD-York River STP

Parham Landing WWTP

Totopotomoy WWTP

HRSD-West Point STP

HRSD-Mathews Courthouse STP

James River Basin

Buena Vista STP

Clifton Forge STP

Covington STP

Lexington-Rockbridge Regional WQCF

Alleghany Co.-Low Moor STP

Alleghany Co.-Lower Jackson

River WWTP

Amherst-Rutledge Creek WWTP

Lynchburg STP

RWSA-Moores Creek Regional STP

Crewe WWTP

Farmville WWTP

Chesterfield Co.-Falling

Creek WWTP

Henrico Co. WWTP

Hopewell Regional WWTF

Chesterfield Co.-Proctors

Creek WWTP

Richmond WWTP

South Central Wastewater

Authority WWTF

Chickahominy WWTP

HRSD-Boat Harbor STP

HRSD-James River STP

HRSD-Williamsburg STP

HRSD-Nansemond STP

HRSD-Army Base STP

HRSD-Virginia Initiative Plant STP

Fauquier County Water and
Sewer Authority

Town of Warrenton

Rapidan Service Authority

Spotsylvania County

City of Fredericksburg

Stafford County

Spotsylvania County

Westmoreland County

King George County Service
Authority

Town of Tappahannock

Hampton Roads Sanitation District

Town of Warsaw

Reedville Sanitary District

Town of Kilmarnock

Caroline County

Rapidan Service Authority

Hanover County

Hanover County

Hampton Roads Sanitation District

New Kent County

Hanover County

Hampton Roads Sanitation District

Hampton Roads Sanitation District

City of Buena Vista

Town of Clifton Forge

City of Covington

Maury Service Authority

Alleghany County

Alleghany County

Town of Amherst

City of Lynchburg

Rivanna Water and Sewer Authority

Town of Crewe

Town of Farmville

Chesterfield County

Henrico County

City of Hopewell

Chesterfield County

City of Richmond

South Central Wastewater

Authority

New Kent County

Hampton Roads Sanitation District

Hampton Roads Sanitation District

Hampton Roads Sanitation District

Hampton Roads Sanitation District

Hampton Roads Sanitation District

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.