

Form #2

2013 MAY -8 PM 3:57

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



WEST VIRGINIA

Infrastructure & Jobs Development Council

Gov. Earl Ray Tomblin
Chairman

Kenneth Lowe, Jr.
Public Member

Tom Plymale
Public Member

Ron Justice
Public Member

Louis R. Spatafore
Public Member

Joseph Freeland
Public Member

D. K. "Bud" Carr
Public Member

James W. Ellars, P.E.
Executive Director

Barbara J. Pauley
Executive Assistant

May 8, 2013

The Honorable Natalie E. Tennant
West Virginia Secretary of State
State Capitol
Charleston, WV 25301

Re: Filing of An Amendment to Legislative Rule 167, Series 1

Dear Secretary of State:

I am the duly appointed Executive Director of the West Virginia Infrastructure and Jobs Development Council and I have been authorized by the West Virginia Infrastructure and Jobs Development Council to file a proposed amendment to Legislative Rule 167, Series 1. Please contact me at (304) 414-6500 if you have any questions.

Very truly yours,

James W. Ellars
Executive Director

Brief Summary of Proposal

The West Virginia Infrastructure and Jobs Development Council proposes to amend 167CSR1 to utilize the most current U.S. Census Bureau information for assessing whether grants should be made available to certain project sponsors seeking financial assistance. The existing rule utilizes the 2000 U.S. Census Bureau census tract information. The proposed amendment reflects the now available U.S. Census Bureau/American Community Survey information regarding median household income. Prior to the 2010 Census, information relating to median household income was provided by the U.S. Census Bureau every ten years. This median household income information is now made part of the American Community Survey, which is updated more frequently. By amending the rule, the West Virginia Infrastructure and Jobs Development Council could rely on more accurate, up-to-date information in making determinations as to grant recipients. The American Community Survey information is now utilized by the United States Department of Agriculture/Rural Utilities Service and other federal agencies for determining project eligibility. The West Virginia Infrastructure and Jobs Development Council guidelines should be consistent with other funding entities. Along with this change, an amendment is proposed which would permit the West Virginia Infrastructure and Jobs Development Council to update the average customer usage statistics annually, instead of relying on the 4,000 gallon per month standard. This change would allow the West Virginia Infrastructure and Jobs Development Council to adapt to changing customer usage.

The proposed amendment would also delete Appendix A to the rule.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Infrastructure and Jobs Development Council

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: Infrastructure and Jobs Development Council

Address: 1009 Bullitt Street
Charleston, West Virginia
25301

Phone Number: 304-414-6500 Email: jellars@wwwda.org

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The proposed amendments to the rule will have no impact on the costs or revenues of state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Infrastructure and Jobs Development Council

Rule Title: _____

Rule Title: _____

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

The proposed amendments to the rule will have no impact on the costs or revenues of state government.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

The proposed changes to the rule will not have a fiscal impact on costs or revenues of state government because it merely updates the sources of information which may be relied upon in making assessments as to recipients of grant funding through the Infrastructure and Jobs Development Council.

Date: May 8, 2013

Signature of Agency Head or Authorized Representative

James W. Elara

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167CSR1

**TITLE 167
LEGISLATIVE RULE
WEST VIRGINIA INFRASTRUCTURE &
JOBS DEVELOPMENT COUNCIL**

Field Code Changed

**SERIES 1
INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL**

§167-1-1. General.

1.1. Scope and Purpose. -- This legislative rule establishes guidelines to be used by the Council in evaluating any request by a project sponsor for funding assistance for the planning, design, acquisition, or construction of water and waste water projects and the funding of all or any part of the projects through the Infrastructure Fund.

1.2. Authority. -- W. Va. Code §§31-15A-4, 31-15A-5 and 31-15A-10.

1.3. Filing Date. -- _____, 20____

1.4. Effective Date. -- _____, 20____

grading, shaping or treatment of earth, demolishing or removing any buildings or structures; the cost of constructing any buildings or other improvements; the cost of all pumps, tanks, vehicles, apparatus and other machinery, furnishings and equipment; loan or origination fees and all finance charges and interest incurred prior to and during the construction and for no more than six months after completion of construction; the cost of legal services and expenses; the cost of all plans, specifications, surveys and estimates of cost; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquiring, repairing, improving or constructing any project; the cost of placing any project in operation; and all other costs and expenses of any kind or nature incurred or to be incurred by the project sponsor developing the project that are reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project: Provided, That costs shall not include any amounts related to the ongoing operations of the owner or operator, depreciation thereof or any other cost which the Council or the Water Development Authority has not determined to be consistent with the purposes and objectives of the Act.

Deleted: May 4, 2004

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§167-1-2. Definitions.

2.1. "Act" means the Infrastructure and Jobs Development Act, W. Va. Code §§31-15A-1 et seq.

2.2. "Cost" means, as applied to any project to be financed in whole or in part with infrastructure revenues or funds otherwise provided pursuant to the Act, the cost of planning, acquisition, improvement and construction of the project; the cost of preliminary design and analysis, surveys, borings; the cost of environmental, financial, market and engineering feasibility studies, assessments, applications, approvals, submissions or clearances; the cost of preparation of plans and specifications and other engineering services; the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights and any other interests required for the acquisition, repair, improvement or construction of the project; the cost of demolishing or removing any buildings or structures on acquired land, including the cost of acquiring any lands to which buildings or structures may be moved; the cost of excavation,

(C2556225.1)

2.3. "Council" means the West Virginia Infrastructure and Jobs Development Council created pursuant to Section 3 of the Act.

2.4. "Crisis Situation" means a recent incident such as an act of God (drought, freeze, flood, storm or landslide), or an act of man (chemical spill or vandalism), resulting in an outage or a significant decline in quality or quantity of potable water or the treatment of waste water which poses a serious and immediate threat or endangerment to health for which local funds are not available to resolve: Provided, That a crisis situation caused by an act of man shall not include occurrences resulting from the lack of maintenance; negligence;

normal replacement of operating parts, pumps, or systems; or upgrades to achieve compliance with existing or new regulatory standards.

2.5. "Division of Environmental Protection" means the Division of Environmental Protection established under W. Va. Code §§22-1 et seq. or any successor to all or any substantial part of its powers and duties.

2.6. "Division of Health" means the Division of Health created in W. Va. Code §§16-1 et seq. or any successor to all or any substantial part of its powers and duties.

2.7. "Economic Development Authority" means the Economic Development Authority established under W. Va. Code §§31-15 et seq. or any successor to all or any substantial part of its powers and duties.

2.8. "Governmental agency" means any county; municipality; watershed improvement district; assessment district; soil conservation district; sanitary district; public service district; drainage district; regional governmental authority and any other state governmental agency, entity, political subdivision or public corporation or agency authorized to acquire, construct or operate water or waste water facilities or infrastructure projects.

2.9. "Housing Development Fund" means the West Virginia Housing Development Fund established under W. Va. Code §§31-18 et seq. or any successor to all or any substantial part of its powers and duties.

2.10. "Infrastructure Fund" means the West Virginia Infrastructure Fund established in accordance with Section nine of the Act.

2.11. "Infrastructure project" means a project in the State which the Council determines is likely to foster and enhance public health, economic growth and development in the area of the State in which the project is developed, for commercial, industrial, community improvement or preservation or other proper purposes. Infrastructure projects include but are not limited to tourism and recreational housing, land, air or water transportation facilities and bridges, industrial or commercial projects and facilities, mail order, warehouses, wholesale and retail sales facilities and other real and personal properties, including

facilities owned or leased by this state or any other project sponsor, and includes, without limitation (1) the process of acquiring, holding, operating, planning, financing, demolition, construction, improving, expanding, renovation, leasing or otherwise disposing of the project or any part of the project or interest in the project, and (2) preparing land for construction and making, installing or constructing improvements on the land, including water or waste water facilities or any part of the facilities, steam, gas, telephone and telecommunications and electric lines and installations, roads, bridges, railroad spurs, buildings, docking and shipping facilities, curbs, gutters, sidewalks, and drainage and flood control facilities, whether on or off the site.

2.12. "Infrastructure revenue" means all amounts appropriated by the Legislature; all amounts deposited into the Infrastructure Fund; any amounts received, directly or indirectly, from any source for the use of all or any part of any project completed pursuant to this Act; and any other amounts received by the State Treasurer, the Council or the Water Development Authority for the purposes of the Act.

2.13. "Need of the project sponsors" means there is a public need for a project. The Council shall construe a population increase evidenced by the last two decennial censuses in a county in which a project is proposed, as a factor supporting the conclusion that a need exists for projects in that county.

2.14. "Project" means any waste water facility or water facility project, or any combination thereof, constructed or operated or to be constructed or operated by a project sponsor.

2.15. "Project sponsor" means any person or governmental agency, or any combination thereof, including, but not limited to, any public utility, which intends to plan, acquire, construct, improve or otherwise develop a project or infrastructure project.

2.16. "Public Service Commission" means the Public Service Commission of West Virginia created and established under W. Va. Code §24-1-3 or any successor to all or any substantial part of its powers and duties.

2.17. "Person" means any individual,

corporation, partnership, association, limited liability company or any other form of business organization.

2.18. "Public utility" means any person or persons, or association of persons, however associated, whether incorporated or not, including, without limitation, any governmental agency, operating a waste water facility or water facility as a public service, which is regulated by the Public Service Commission as a public utility or which is required to file its tariff with the Public Service Commission.

2.19. "State Development Office" means the West Virginia Development Office established under W. Va. Code §§5B-2 et seq. or any successor to all or any substantial part of its powers and duties.

2.20. "State infrastructure agency" means the Division of Health, Division of Environmental Protection, Housing Development Fund, Public Service Commission, State Development Office, Water Development Authority, Economic Development Authority and any other state agency, division, body, authority, commission, instrumentality or entity which now receives or in the future may receive applications for the funding of, and provides funding or technical assistance for, the planning, acquisition, construction or improvement of a project.

2.21. "Waste water facility" means all public facilities, land and equipment used for or in connection with treating, neutralizing, disposing of, stabilizing, cooling, segregating or holding waste water, including, without limitation, facilities for the treatment and disposal of sewage, industrial wastes or other wastes, waste water, and the residue thereof; facilities for the temporary or permanent impoundment of waste water, both surface and underground; and sanitary sewers or other collection systems, whether on the surface or underground, designed to transport waste water together with the equipment and furnishings and their appurtenances and systems, whether on the surface or underground including force mains and pumping facilities.

2.22. "Water Development Authority" means the West Virginia Water Development Authority established under W. Va. Code §§22C-1 et seq. or any successor to all or any substantial part of its powers and duties.
(C2556225.1)

2.23. "Water facility" means all public facilities, land and equipment used for or in connection with the collection and/or storage of water, both surface and underground, transportation of water, storage of water, treatment of water and distribution of water for the purpose of providing potable, sanitary water suitable for human consumption and use.

§167-1-3. Projects.

3.1. Project Review. Prior to applying for or receiving any loan, loan guarantee, grant or other funding assistance for a project from any State infrastructure agency, a project sponsor must submit a preliminary application on the Council's form and must receive the Council's recommendation.

3.1.1. If a project sponsor believes that a project is outside the review of the Council, then the project sponsor shall complete only the appropriate sections of the preliminary application form and shall request an exemption from review.

3.2. Exemption from Review. The Council shall exempt the following from the preliminary application review process:

3.2.1. Any project which either had received acceptable bids for the project or had all funding in place on July 1, 1994;

3.2.2. Any funding from a State infrastructure agency where the recipient of the funding is designated by state or federal law or regulation;

3.2.3. Any funding from any agency determined by the Council not to be a State infrastructure agency;

3.2.4. Any funding from the governor's civil contingent fund with regard to projects or infrastructure projects;

3.2.5. Any activity funded by a State infrastructure agency determined by the Council to be outside the scope of the definition of project;

3.2.6. Any action taken by the Economic Development Authority pursuant to the authority established in W. Va. Code §§31-

15 et seq; and

3.2.7. The North Fork Hughes River project described in Section 8(d) of the Act.

3.3. Preliminary Application Filing. A project sponsor may file a preliminary application with the Council, at the offices of the Water Development Authority, at any time: Provided, that the preliminary application shall not be formally accepted until such preliminary application is presented to the Council at the next regularly scheduled Council meeting, at which time the thirty-day review period begins. The Water Development Authority may, but is not required to, circulate the preliminary application to Council members or Council committees in advance of the meeting.

3.4. Preliminary Application Review. Within thirty days of the Council's formal acceptance of a complete preliminary application from a project sponsor, the Council shall either recommend that the project sponsor seek funding or that the project sponsor not seek funding for the project or request additional information if necessary to make a determination.

3.5. Approval. If the Council determines that the project is consistent with the Act, it shall make a written recommendation for the project financing stating: (i) the loan, loan guarantee or grant, or any combination thereof, for which the project sponsor should apply; (ii) the amount or amounts of the loan, loan guarantees or grant; (iii) the source or sources of the funding and (iv) which State infrastructure agency or agencies should consider funding the project, including funding from the Infrastructure Fund.

3.6. Funding of Project. The Council may provide that if the recommended funding sources have not or cannot dedicate money for the project, the project sponsor shall submit a supplement to its preliminary application to the Council for consideration of alternate funding from another funding source or the Infrastructure Fund.

3.7. Denial. If the Council determines that the project is not eligible for funding assistance from any State infrastructure agency, or that the project is not otherwise an appropriate or prudent investment of State funds, it shall recommend that the project sponsor not seek

funding from any State infrastructure agency.

3.8. Recommendations. The Council shall provide a copy of its recommendation, together with a copy of the preliminary application, if not previously provided, to all State infrastructure agencies which are listed in the recommendation as recommended funding sources.

§167-1-4. Review Guidelines.

4.1. Determination of Eligible Projects. When evaluating any request for funding assistance to plan, acquire, construct, improve or otherwise develop a project, the Council and other State infrastructure agencies shall consider the following:

4.1.1. The public health benefits;

4.1.2. The economic development benefits;

4.1.3. The degree to which the project will correct deficiencies involving compliance of water systems or sewage treatment facilities with State or federal laws, rules, regulations or standards;

4.1.4. The degree to which the project encourages effective and efficient consolidation of water or sewage treatment systems consistent with the comprehensive plan developed pursuant to Section six of the Act;

4.1.5. The cost effectiveness of the project as compared with alternatives which achieve substantially the same public health or economic development benefits, including the consideration of system operation and maintenance requirements and providing maximum feasible fire protection;

4.1.6. The availability of alternative sources of funding which could finance all or a part of the project, and the need for the assistance of the Council to finance the project or attract other sources of funding;

4.1.7. The applicant's ability to operate and maintain the system if the project is approved;

4.1.8. The degree to which the project achieves other State or regional planning goals;

4.1.9. The estimated date upon which the project could commence if funding were available and the estimated completion date of the project;

4.1.10. Any other considerations the Council considers necessary or appropriate to accomplish the purpose and intent of the Act.

4.2. Waste Water Guidelines. When evaluating a request for funding a project which will include the construction, improvement, or development of a waste water facility or system, the Council and other State infrastructure agencies shall consider the following:

4.2.1. The improvement of public health by addressing direct human impact due to system malfunctions or inadequately treated sewage; the severity of individual or public water supply contamination; the degree of impact on public bathing areas; and the severity of safety hazards from deteriorated facilities;

4.2.2. The enhancement of economic development by encouraging directly or indirectly development activity and job creation or retention;

4.2.3. The facilitation of enforcement compliance by reducing the existence of overload conditions, damage to fish and aquatic life, loss of boating and recreation opportunity, impact on industrial water supply uses, and impact on crop irrigation and degradation of streams used for stock watering;

4.2.4. The adequacy, efficiency and social impact; the extent that reorganization or consolidation of facilities will be accomplished; whether the population will be directly affected; the ongoing ability of the applicant to operate and maintain the project facilities and system; an increase in the reliability of service; and efficiency of the proposed solution when compared with other alternatives; and

4.2.5. The enhancement of the State goal of providing waste water treatment in developing or developable but currently unserved areas.

4.3. Water Guidelines. When evaluating a request for funding of a project which will include the construction, improvement, or development of a water facility or system, the

Council and other State infrastructure agencies shall consider the following:

4.3.1. The effect on public health; the elimination of an ongoing public health hazard; the elimination of a periodic or potential public health hazard; and the preventive maintenance related to health hazards;

4.3.2. The enhancement of economic development activity and job creation or retention resulting directly or indirectly from the project; the opportunity to use other State programs; and the degree of local distress in the area where the project is located;

4.3.3. The effect on compliance and improvement in water system design, treatment, service, operation and compliance;

4.3.4. The ongoing ability of the applicant to operate and maintain the project facility and system;

4.3.5. The beneficial environmental and social impacts; beneficial environmental impact only; and beneficial social impact only;

4.3.6. The adequacy and efficiency of the water facility or system; the increase in availability of water, water conservation or improvement in aesthetic water quality; the increase in the reliability of service; and the efficiency of the proposed solution when compared with other alternatives; and

4.3.7. The enhancement of the State goal of providing potable water in developing but currently unserved areas.

§167-1-5. Infrastructure Fund Administration.

5.1. Administration of Infrastructure Fund. The Water Development Authority shall administer amounts in the Infrastructure Fund.

5.2. Sources of Money for Fund. The Infrastructure Fund shall consist of infrastructure revenues; any appropriations, grants, gifts, contributions, loan proceeds or other revenues received by the Infrastructure Fund from any source, public or private; amounts received as payments on any loans made by the Water Development Authority from the Infrastructure Fund to pay for the cost of a project or

infrastructure project; insurance proceeds payable to the Water Development Authority or the Infrastructure Fund in connection with any infrastructure project or project; all income earned on moneys held in the Infrastructure Fund; all funds deposited in accordance with the Act; and all proceeds derived from the sale of bonds issued pursuant to W. Va. Code §§31-15B-1 et seq.

5.3. Use of Moneys in the Fund. Upon the written recommendation of the Council, and subject to the restrictions set forth in the Act, including but not limited to the restrictions set forth, the Water Development Authority shall use money in the Infrastructure Fund to make loans, loan guarantees or grants, or any combination thereof, and to provide financial, technical or other assistance as necessary to finance all or part of the costs of infrastructure projects or projects to be undertaken by a project sponsor.

5.4. Council Determination. Prior to the Water Development Authority's making any loan, loan guarantee, grant or other assistance, the Council shall determine that the loan, loan guarantee, grant or other assistance and the manner in which it will be provided are necessary or appropriate to accomplish the purposes and intent of the Act.

5.5. Eligible Grant Recipients. The Council shall not authorize the Water Development Authority to make grants for any project to any project sponsor (i) which is not a governmental agency or a not-for-profit corporation, or (ii) where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.6. Grant Requirements. The Water Development Authority may make a grant to a project sponsor for a project if the Council in its sole discretion determines and finds that (1) the level of rates for the users would otherwise be an unreasonable burden given the users' likely ability to pay; or (2) the absence of a sufficient number of users prevents funding of the project except through grants. Prior to awarding any infrastructure grant money to a project sponsor, the Council shall determine that no other funding is available for the proposed grant portion of the project.

5.7. Grant Criteria. In determining whether

a grant should be offered, and, if so, what proportion of the financial assistance offered should constitute a grant and what portion should constitute a loan or other loan assistance, the Council shall consider the ultimate effect that financing a project's costs will have on the rates that users will be required to pay.

5.7.1. In performing this assessment, the Council shall review the mandatory minimum end user utility rate that must be met by the project sponsor before grant assistance may be awarded. This mandatory minimum end user utility rate shall be based upon a uniform statewide percentage of the median household income as determined and published by the United States Department of Commerce, Census Bureau, American Community Survey (5 year), or other successor survey, performed or sponsored by the United States Census Bureau, for the geographic area which the project will serve and upon an average customer usage adopted by the Council on an annual basis. The uniform percentage rate shall be .6% of the median household income. The Council shall base its determination on the median household income for the Census Bureau established minor civil division (MCD) or other Census tract established by the United States Census Bureau most closely related to the geographic boundaries of the project sponsor as established by law. If the project sponsor provides service to two or more MCD's but does not serve an entire county or if a municipal project sponsor serves outside its corporate boundaries, then the Council shall compute the minimum end user utility rate based on an average of the information available. When determining median household income of a geographic area of the project to be served, the Council shall also consider any surveys of the income of the households that will be served by the project.

Deleted: of the Census

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Deleted: The minor civil divisions and the median household incomes extracted from the 2000 Bureau of Census report are set forth in Appendix A of this rule.

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5.7.2. The Council may further consider factors including, but not limited to, the financial condition of the applicant, including revenues, expenses, debt structure, reserve balances, available collateral and financial condition of the project sponsor, and the inability of the project sponsor to secure grant funding from other sources.

5.8. Limit on Grant Amount. Any moneys disbursed from the Infrastructure Fund in the form of grants shall not exceed twenty percent of the total funds available for the funding of projects. The Council may limit individual grant

awards to whatever amount it considers desirable to advance the intent and purposes of the Act: Provided, That no project sponsor shall receive infrastructure grant money in an amount in excess of fifty percent of the total cost of the project.

5.9. Terms of Grant. Where a project sponsor has received infrastructure grant money to fund a project, and the project is thereafter sold then to the extent that proceeds are available, the project sponsor shall reimburse the infrastructure fund the amount of the infrastructure grant. In the alternative, the council may allow repayment of the grant by converting the grant into a loan from the infrastructure fund. The proceeds from the repayment of any grant or grant which has been converted to a loan shall retain their character as proceeds available for grants. The amount of repayment may be reduced by the applicable share of accumulated depreciation of the project or the applicable share of accumulated accelerated depreciation of the project as determined by the Council. The infrastructure council shall review any agreement between the project sponsor and the person or entity purchasing the project to determine whether the agreement was structured so that no proceeds would become available for the repayment of the grant funds. If the infrastructure council finds that the transaction was structured by the parties to intentionally preclude the availability of proceeds for the repayment of the infrastructure grant funds, then the council may require the project sponsor to repay the full amount of any infrastructure grant. The Council shall prepare a report listing those projects which received infrastructure grant money and are sold. The report shall include a description of the terms by which the infrastructure grant will be repaid. The report shall be provided on or before the tenth day of January each year to the Joint Committee on Government and Finance.

5.10. Loans. The Council shall authorize the Water Development Authority to make loans or loan assistance from the Infrastructure Fund on a case-by-case basis based on the need of the project sponsor and upon terms and conditions as recommended by the Council. No loan or loan assistance will be authorized where the project, if funded, will provide subsidized services to certain users in the service area of the project.

5.11. Limit on Loan Amount. The Council may limit loans to project sponsors to whatever amount it considers desirable to advance the intent and purposes of the Act.

5.12. Limit on Loan Interest Rate. The interest rate on any loan to governmental, quasi-governmental, or not-for-profit project sponsors for projects made pursuant to the Act shall not exceed three percent per annum. Loans made to for profit entities shall bear interest at the current market rates which shall be the equivalent of the prime rate published in the Wall Street Journal, or similar publication, on the date of the loan commitment.

5.13. Financial Assistance from the Fund. Each loan, loan guarantee, grant or other assistance made or provided by the Water Development Authority shall be evidenced by a loan, loan guarantee, grant or assistance agreement between the Water Development Authority and the project sponsor to which the loan, loan guarantee, grant or assistance shall be made or provided; the agreement shall include, without limitation and to the extent applicable, the following provisions:

5.13.1. The estimated cost of the infrastructure project or project, the amount of the loan, loan guarantee or grant or the nature of the assistance, and in the case of a loan or loan guarantee, the terms of repayment and the security therefore, if any;

5.13.2. The specific purposes for which the loan or grant proceeds shall be expended or the benefits to accrue from the loan guarantee or other assistance, and the conditions and procedure for disbursing loan or grant proceeds;

5.13.3. The duties and obligations imposed upon the project sponsor regarding the acquisition, construction, improvement or operation of the project or infrastructure project;

5.13.4. The agreement of the project sponsor to comply with all applicable federal and state laws, and all rules and regulations issued or imposed by the Council or other state, federal or local bodies regarding the acquisition, construction, improvement or operation of the infrastructure project or project and granting the Water Development Authority the right to appoint a receiver for the project if the project sponsor should default on any terms of the

agreement;

5.13.5. Each project sponsor who receives assistance from the Infrastructure Fund for a project must certify to the Council that it will construct any building required for public use with a roof sloped sufficiently to allow for the proper drainage of water; and

5.13.6. Funding assistance made from the proceeds of any general obligation bonds and revenue bonds issued after the fifteenth day of March, one thousand nine hundred ninety-eight, after transfers required to make the State match for the water and wastewater revolving loan programs pursuant to W. Va. Code §§22C-2-1 et. seq. and 16-13C-1 et. seq., shall be provided by the Council on a pro rata basis divided equally among the congressional districts of the State in accordance with the Act. Infrastructure projects shall not be subject to pro rata distribution.

5.14. Advance Funding Assistance. If the Council determines that the engineering studies and requirements for the pre-application process would impose an undue hardship on a project sponsor, the Council may provide funding assistance to the project sponsor to defray the expenses of the process from moneys available in the Infrastructure Fund: Provided, That such funding assistance is limited to an amount equal to five thousand dollars or fifty percent of the total pre-application cost, whichever amount is greater. If the project is ultimately approved for a loan by the Council, the amount of the funding assistance shall be included in the total amount of the loan to be repaid by the project sponsor. If the project is not ultimately approved by the Council, the amount of the funding assistance shall be considered a grant by the Council, and the total amount of the assistance shall be forgiven. In no event may the amount of advance funding assistance provided to all project sponsors exceed, in the aggregate, one hundred thousand dollars annually, as determined on a State fiscal year basis.

5.15. Crisis Situation Funding Assistance. The Water Development Authority, upon recommendation of the Council or designated committees of Council, shall make funding available to provide assistance to restore or safeguard water or waste water treatment service following a crisis situation which is an immediate threat or endangerment to the public

health, provided, that the project sponsor must notify the Council as soon as reasonably possible following the incident and make application for funding in writing within 30 days of the incident.

5.16. Other Assistance. The Authority, at the discretion of the Council, may provide other forms and methods of assistance in addition to loans and grants, including, but not limited to, bond and loan guarantees and the purchase of insurance for the bonds.

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Section Break (Continuous)

Addison (Webster Springs)	\$20,592	Carpendale town	35,404
Albright town	21,389	Cassville CDP	25,799
Alderson town	23,043	Cedar Grove town	23,250
Alum Creek CDP	40,714	Ceredo city	24,323
Amherstdale-Robinette CDP	28,512	Chapmanville town	23,077
Anawalt town	13,333	Charles Town city	32,538
Anmoore town	25,000	Charleston city	34,009
Ansted town	25,028	Chattaroy CDP	31,563
Athens town	27,260	Cheat Lake CDP	48,594
Auburn town	19,063	Chesapeake town	29,526
Bancroft town	28,833	Chester city	28,550
Barboursville village	35,139	Clarksburg city	27,722
Barrackville town	31,587	Clay town	14,712
Bath (Berkeley Springs) town	24,934	Clearview village	41,250
Bayard town	25,156	Clendenin town	32,000
Beaver CDP	25,836	Coal City CDP	28,049
Beckley city	28,122	Coal Fork CDP	26,250
Beech Bottom village	33,393	Corporation of Ranson town	24,485
Belington town	22,154	Cowen town	21,250
Belle town	34,118	Crab Orchard CDP	29,932
Belmont city	27,375	Craigsville CDP	24,631
Benwood city	20,478	Cross Lanes CDP	45,334
Bethany town	36,375	Culloden CDP	39,135
Bethlehem village	43,802	Daniels CDP	27,955
Beverly town	21,875	Danville town	21,369
Blacksville town	31,250	Davis town	25,221
Blennerhassett CDP	51,250	Davy town	16,250
Bluefield city	27,672	Delbarton town	21,875
Boaz CDP	39,250	Despard CDP	19,740
Bolivar town	42,375	Dunbar city	35,117
Bradley CDP	28,844	Durbin town	23,462
Bradshaw town	12,083	East Bank town	35,341
Bramwell town	21,979	Eleanor town	35,284
Brandonville town	28,125	Elizabeth town	25,114
Bridgeport city	49,310	Elk Garden town	24,375
Brookhaven CDP	32,206	Elkins city	26,906
Bruceton Mills town	25,625	Elkview CDP	35,033
Buckhannon city	23,421	Ellenboro town	22,500
Buffalo town	26,481	Enterprise CDP	29,583
Burnsville town	24,167	Fairlea CDP	20,664
Cairo town	24,688	Fairmont city	25,628
Camden-on-Gauley town	15,417	Fairview town	24,896
Cameron city	25,119	Falling Spring town	25,469
Capon Bridge town	30,750	Farmington town	29,375
		Fayetteville town	35,043
		Flatwoods town	29,500

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Municipality	2000 Census Median HH Income	Avg Yearly Bill Based on 0.6%	Avg Monthly B Based on 0.6%
Flemington town	27,917	Keyser city	23,718
Follansbee city	30,818	Keystone city	10,417
Fort Ashby CDP	32,375	Kimball town	17,333
Fort Gay town	14,565	Kingwood city	29,155
Franklin town	32,125	Leon town	21,429
Friendly town	33,571	Lester town	24,375
Gary city	22,857	Lewisburg city	27,857
Gassaway town	23,009	Littleton town	15,714
Gauley Bridge town	22,500	Logan city	22,623
Gilbert Creek CDP	16,625	Lost Creek town	26,563
Gilbert town	29,219	Lubeck CDP	42,614
Glasgow town	35,526	Lumberport town	33,750
Glen Dale city	40,000	Mabscott town	28,021
Glenville town	20,243	MacArthur CDP	29,607
Grafton city	21,981	Madison city	29,911
Grant Town town	24,722	Mallory CDP	24,458
Grantsville town	26,111	Man town	40,179
Granville town	22,583	Mannington city	26,806
Hambleton town	23,625	Marlinton town	21,293
Hamlin town	22,143	Marmet city	29,779
Handley town	21,429	Martinsburg city	29,495
Harman town	21,136	Mason town	24,621
Harpers Ferry town	52,344	Masontown town	22,750
Harrisville town	28,750	Matewan town	13,529
Hartford City town	24,219	Matoaka town	17,159
Harts CDP	21,703	McMechen city	27,179
Hedgesville town	49,375	Meadow Bridge town	23,194
Henderson town	15,865	Middlebourne town	28,704
Hendricks town	26,705	Mill Creek town	24,886
Hillsboro town	29,583	Milton town	29,348
Hinton city	20,323	Mineralwells CDP	42,083
Holden CDP	23,510	Mitchell Heights town	52,500
Hooverson Heights CDP	37,101	Monongah town	25,750
Hundred town	25,192	Montcalm CDP	20,435
Huntington city	23,234	Montgomery city	20,606
Hurricane city	39,591	Montrose town	33,571
Huttonsville town	22,321	Moorefield town	24,178
Iaeger town	14,886	Morgantown city	20,649
Inwood CDP	41,033	Moundsville city	23,107
Jane Lew town	23,571	Mount Gay-Shamrock CDP	18,975
Jefferson town	16,384	Mount Hope city	18,375
Junior town	20,536	Mullens city	27,742
Kenova city	23,342	New Cumberland city	28,529
Kermit town	31,500	New Haven town	27,008

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Municipality	2000 Census Median HH Income	Avg Yearly Bill Based on 0.6%	Avg Monthly B Based on 0.6%
New Martinsville city	33,750	Romney city	22,261
Newburg town	24,063	Ronceverte city	24,400
Newell CDP	31,343	Rowlesburg town	28,125
Nitro city	32,389	Rupert town	20,250
North Hills town	83,659	Salem city	16,577
Northford town	16,544	Sand Fork town	30,179
Nutter Fort town	30,163	Shady Spring CDP	29,464
Oak Hill city	24,792	Shepherdstown town	40,750
Oakvale town	22,500	Shinnston city	26,786
Oceana town	19,273	Sissonville CDP	36,725
Paden City city	32,940	Sistersville city	26,799
Parkersburg city	26,990	Smithers city	20,417
Parsons city	26,424	Smithfield town	18,500
Paw Paw town	25,625	Sophia town	26,008
Pax town	21,875	South Charleston city	37,905
Pea Ridge CDP	41,739	Spencer city	19,773
Pennsboro city	24,120	St Albans city	37,130
Petersburg city	24,867	Stanaford CDP	30,640
Peterstown town	23,036	Star City town	26,771
Philippi city	21,528	Stonewood city	28,000
Piedmont town	21,190	St. Marys city	30,755
Pinch CDP	46,516	Summersville town	29,783
Pine Grove town	25,769	Sutton town	25,134
Pineville town	31,008	Switzer CDP	21,806
Piney View CDP	26,324	Sylvester town	35,625
Pleasant Valley city	33,686	Teays Valley CDP	53,053
Poca town	42,273	Terra Alta town	25,388
Point Pleasant city	27,022	Thomas city	22,443
Powellton CDP	23,224	Thurmond town	23,750
Pratt town	37,500	Tornado CDP	50,000
Princeton city	21,736	Triadelphia town	26,169
Prosperity CDP	31,632	Tunnelton town	18,125
Pullman town	19,821	Union town	21,797
Quinwood town	21,705	Valley Grove village	27,813
Rainelle town	19,491	Vienna city	39,220
Ravenswood city	30,308	War city	16,012
Red Jacket CDP	21,364	Wardensville town	28,864
Reedsville town	32,273	Washington CDP	54,483
Reedy town	17,000	Wayne town	20,242
Rhodell town	17,143	Weirton city	35,212
Richwood city	21,620	Welch city	19,795
Ridgeley town	26,016	Wellsburg city	27,298
Ripley city	25,861	West Hamlin town	19,250
Rivesville town	25,700	West Liberty town	28,393

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Municipality	2000 Census Median HH Income	Avg Yearly Bill Based on 0.6%	Avg Monthly B Based on 0.6%
West Logan town	23,500	141.00	11.75
West Milford town	32,250	193.50	16.13
West Union town	18,300	109.80	9.15
Weston city	26,690	160.14	13.35
Westover city	28,659	171.95	14.33
Wheeling city	27,388	164.33	13.69
White Sulphur Springs city	26,694	160.16	13.35
Whitehall town	42,813	256.88	21.41
Whitesville town	19,250	115.50	9.63
Wiley Ford CDP	32,017	192.10	16.01
Williamson city	19,635	117.81	9.82
Williamstown city	36,344	218.06	18.17
Windsor Heights village	28,523	171.14	14.26
Winfield town	51,023	306.14	25.51
Womelsdorf (Coalton) town	28,462	170.77	14.23
Worthington town	28,750	172.50	14.38

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Municipality	2000 Census Median HH Income	Avg Yearly Bill Based on 0.6%	Avg Monthly B Based on 0.6%
Barbour	\$24,885	\$149.31	\$12.44
Berkeley	38,187	229.12	19.09
Boone	26,912	161.47	13.46
Braxton	24,746	148.48	12.37
Brooke	32,414	194.48	16.21
Cabell	29,088	174.53	14.54
Calhoun	22,717	136.30	11.36
Clay	23,025	138.15	11.51
Doddridge	27,400	164.40	13.70
Fayette	24,691	148.15	12.35
Gilmer	23,312	139.87	11.66
Grant	28,940	173.64	14.47
Greenbrier	27,445	164.67	13.72
Hampshire	31,358	188.15	15.68
Hancock	33,296	199.78	16.65
Hardy	31,647	189.88	15.82
Harrison	30,755	184.53	15.38
Jackson	32,213	193.28	16.11
Jefferson	43,024	258.14	21.51
Kanawha	33,626	201.76	16.81
Lewis	26,911	161.47	13.46
Lincoln	23,553	141.32	11.78
Logan	24,396	146.38	12.20
Marion	28,905	173.43	14.45
Marshall	30,803	184.82	15.40
Mason	28,123	168.74	14.06
McDowell	17,981	107.89	8.99
Mercer	26,719	160.31	13.36
Mineral	31,103	186.62	15.55
Mingo	22,949	137.69	11.47
Monongalia	30,374	182.24	15.19
Monroe	27,646	165.88	13.82
Morgan	33,687	202.12	16.84
Nicholas	26,591	159.55	13.30
Ohio	31,559	189.35	15.78
Pendleton	29,632	177.79	14.82
Pleasants	31,942	191.65	15.97
Pocahontas	26,180	157.08	13.09
Preston	27,792	166.75	13.90

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Municipality	2000 Census Median HH Income	Avg Yearly Bill Based on 0.6%	Avg Monthly B Based on 0.6%
Putnam	42,180	253.08	21.09
Raleigh	28,020	168.12	14.01
Randolph	27,108	162.65	13.55
Ritchie	27,509	165.05	13.75
Roane	24,864	149.18	12.43
Summers	21,672	130.03	10.84
Taylor	26,836	161.02	13.42
Tucker	26,536	159.22	13.27
Tyler	29,764	178.58	14.88
Upshur	27,418	164.51	13.71
Wayne	28,459	170.75	14.23
Webster	21,297	127.78	10.65
Wetzel	30,972	185.83	15.49
Wirt	29,415	176.49	14.71
Wood	33,212	199.27	16.61
Wyoming	23,959	143.75	11.98
STATE	\$30,108	\$180.65	\$15.05