

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 556

(By Senators McCabe, Green, Edgell,
Helmick, Yost, Browning, Tucker,
Miller, Fanning and Plymale)

[Originating in the Committee on Finance;
reported February 28, 2011.]

A BILL to amend and reenact §22C-1-6 of the Code of West Virginia, 1931, as amended, relating to authorizing the appointment of certain individuals to carry out the business of the Water Development Authority; authorizing the Water Development Authority to fix the compensation of those certain employees; and requiring the Water Development Authority to employ all other employees pursuant to the state civil service system.

Be it enacted by the Legislature of West Virginia:

That §22C-1-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

§22C-1-6. Powers, duties and responsibilities of authority generally.

1 The Water Development Authority has and may exercise
2 all powers necessary or appropriate to carry out and effectu-
3 ate its corporate purpose. The authority has the power and
4 capacity to:

5 (1) Adopt and, from time to time, amend and repeal bylaws
6 necessary and proper for the regulation of its affairs and the
7 conduct of its business and rules to implement and make
8 effective its powers and duties, such rules to be promulgated
9 in accordance with the provisions of chapter twenty-nine-a
10 of this code.

11 (2) Adopt an official seal.

12 (3) Maintain a principal office and, if necessary, regional
13 suboffices at locations properly designated or provided.

14 (4) Sue and be sued in its own name and plead and be
15 impleaded in its own name and particularly to enforce the
16 obligations and covenants made under sections nine, ten and
17 sixteen of this article. Any actions against the authority shall

18 be brought in the circuit court of Kanawha County in which
19 the principal office of the authority shall be located.

20 (5) Make loans and grants to governmental agencies for the
21 acquisition or construction of water development projects by
22 any such governmental agency and, in accordance with the
23 provisions of chapter twenty-nine-a of this code, adopt rules
24 and procedures for making such loans and grants.

25 (6) Acquire, construct, reconstruct, enlarge, improve,
26 furnish, equip, maintain, repair, operate, lease or rent to, or
27 contract for operation by a governmental agency or person,
28 water development projects and, in accordance with the
29 provisions of chapter twenty-nine-a of this code, adopt rules
30 for the use of such projects.

31 (7) Make available the use or services of any water devel-
32 opment project to one or more persons, one or more govern-
33 mental agencies or any combination thereof.

34 (8) Issue water development revenue bonds and notes and
35 water development revenue refunding bonds of the state,
36 payable solely from revenues as provided in section nine of
37 this article unless the bonds are refunded by refunding
38 bonds, for the purpose of paying all or any part of the cost of,

39 or financing by loans to governmental agencies, one or more
40 water development projects or parts thereof.

41 (9) Acquire by gift or purchase, hold and dispose of real
42 and personal property in the exercise of its powers and the
43 performance of its duties as set forth in this article.

44 (10) Acquire in the name of the state, by purchase or
45 otherwise, on such terms and in such manner as it deems
46 proper, or by the exercise of the right of eminent domain in
47 the manner provided in chapter fifty-four of this code, such
48 public or private lands, or parts thereof or rights therein,
49 rights-of-way, property, rights, easements and interests it
50 deems necessary for carrying out the provisions of this
51 article, but excluding the acquisition by the exercise of the
52 right of eminent domain of any public water facilities,
53 stormwater systems or wastewater facilities, operated under
54 permits issued pursuant to the provisions of article eleven,
55 chapter twenty-two of this code and owned by any person or
56 governmental agency, and compensation shall be paid for
57 public or private lands so taken.

58 (11) Make and enter into all contracts and agreements and
59 execute all instruments necessary or incidental to the
60 performance of its duties and the execution of its powers.

61 When the cost under any such contract or agreement, other
62 than compensation for personal services, involves an expen-
63 diture of more than \$2,000, the authority shall make a
64 written contract with the lowest responsible bidder after
65 public notice published as a Class II legal advertisement in
66 compliance with the provisions of article three, chapter fifty-
67 nine of this code, the publication area for such publication to
68 be the county wherein the work is to be performed or which
69 is affected by the contract, which notice shall state the
70 general character of the work and the general character of
71 the materials to be furnished, the place where plans and
72 specifications therefor may be examined and the time and
73 place of receiving bids, but a contract or lease for the
74 operation of a water development project constructed and
75 owned by the authority or an agreement for cooperation in
76 the acquisition or construction of a water development
77 project pursuant to section sixteen of this article is not
78 subject to the foregoing requirements and the authority may
79 enter into such contract or lease or such agreement pursuant
80 to negotiation and upon such terms and conditions and for
81 such period as it finds to be reasonable and proper under the
82 circumstances and in the best interests of proper operation

83 or of efficient acquisition or construction of such project. The
84 authority may reject any and all bids. A bond with good and
85 sufficient surety, approved by the authority, is required of all
86 contractors in an amount equal to at least fifty percent of the
87 contract price, conditioned upon the faithful performance of
88 the contract.

89 ~~(12) Employ managers, superintendents and other employ-~~
90 ~~ees, who are covered by the state civil service system, and~~
91 ~~retain or contract with consulting engineers, financial~~
92 ~~consultants, accounting experts, architects, attorneys and~~
93 ~~such other consultants and independent contractors as are~~
94 ~~necessary in its judgment to carry out the provisions of this~~
95 ~~article and fix the compensation or fees thereof. All expenses~~
96 ~~thereof are payable solely from the proceeds of water~~
97 ~~development revenue bonds or notes issued by the authority,~~
98 ~~from revenues and from funds appropriated for such purpose~~
99 ~~by the Legislature~~ Appoint one Global Information System
100 Manager II, one Global Information System Programmer
101 Analyst III, two Accountants/Auditors III, one Financial
102 Reporting Specialist II, two Financial Reporting Specialists
103 I, one Chief Financial Officer, and any accountants, Global
104 Information System personnel, or attorneys as are necessary

105 in the authority's judgment to carry out the provisions of this
106 article outside the state civil service system for the transac-
107 tion of its business. All such employees of the authority may
108 be removed at the discretion of the authority.

109 (13) Fix the compensation and define the duties and
110 responsibilities of the appointees designated in subsection
111 twelve of this section and provide a system of organization
112 to promote efficiency. The authority may reimburse any state
113 spending unit for any special expense actually incurred in
114 providing any service or the use of any facility to the author-
115 ity.

116 (14) Employ other employees not mentioned in subsection
117 twelve of this section as are necessary in the authority's
118 judgment to carry out the provisions of this article in
119 accordance with article six, chapter twenty-nine of this code.

120 ~~(13)~~ (15) Receive and accept from any federal agency,
121 subject to the approval of the Governor, grants for or in aid
122 of the construction of any water development project or for
123 research and development with respect to public water
124 facilities, stormwater systems or wastewater facilities and
125 receive and accept aid or contributions from any source of
126 money, property, labor or other things of value to be held,

127 used and applied only for the purposes for which such grants
128 and contributions are made.

129 ~~(14)~~ (16) Engage in research and development with respect
130 to public water facilities, stormwater systems or wastewater
131 facilities.

132 ~~(15)~~ (17) Purchase property coverage and liability insur-
133 ance for any water development project and for the principal
134 office and suboffices of the authority, insurance protecting
135 the authority and its officers and employees against liability,
136 if any, for damage to property or injury to or death of
137 persons arising from its operations and any other insurance
138 the authority may agree to provide under any resolution
139 authorizing the issuance of water development revenue
140 bonds or in any trust agreement securing the same.

141 ~~(16)~~ (18) Charge, alter and collect rentals and other charges
142 for the use or services of any water development project as
143 provided in this article and charge and collect reasonable
144 interest, fees and charges in connection with the making and
145 servicing of loans to governmental agencies in the further-
146 ance of the purposes of this article.

147 ~~(17)~~ (19) Establish or increase reserves from moneys
148 received or to be received by the authority to secure or to pay

149 the principal of and interest on the bonds and notes issued
150 by the authority pursuant to this article.

151 ~~(18)~~ (20) Administer on behalf of the Department of
152 Environmental Protection the Dam Safety Rehabilitation
153 Revolving Fund Loan Program pursuant to the provisions of
154 article fourteen of chapter twenty-two of this code. Revenues
155 or moneys designated by this code or otherwise appropriated
156 for use by the authority pursuant to the provisions of this
157 article may not be used for the Dam Safety Rehabilitation
158 Revolving Fund Loan Program and moneys in the Dam
159 Safety Rehabilitation Revolving Fund shall be kept separate
160 from all revenues and moneys of the authority.

161 ~~(19)~~ (21) Do all acts necessary and proper to carry out the
162 powers expressly granted to the authority in this article.

(NOTE: The purpose of this bill is to provide the Water Develop-
ment Authority with authority relating to the appointment of
individuals to carry out the business of the authority.)

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