

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 315

(By Senator Wells)

[Originating in the Committee on Military;
reported January 22, 2014.]

A BILL to amend and reenact §15-1J-3 and §15-1J-4 of the Code of West Virginia, 1931, as amended, all relating to authorizing the West Virginia Military Authority to administer national security, homeland security and other military-related or -sponsored programs; redefining “employee”; expanding with whom the authority may contract to include any state, territory or the District of Columbia; and authorizing the authority to accept and use funds from the federal government, any state and other specified entities for the purposes of national

security, homeland security and other military-related or -
sponsored programs.

Be it enacted by the Legislature of West Virginia:

That §15-1J-3 and §15-1J-4 of the Code of West Virginia,
1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 1J. WEST VIRGINIA MILITARY AUTHORITY
ACT.**

§15-1J-3. Definitions.

1 As used in this article, unless the content clearly
2 indicates otherwise:

3 (a) “Authority” means the West Virginia Military
4 Authority.

5 (b) “BRIM” means the West Virginia Board of Risk
6 Management.

7 (c) “Guard” means West Virginia National Guard,
8 including its army and air components.

9 (d) “Employee” means any person who, within the at-will
10 employment relationship, is hired ~~performs duties and is paid~~

11 ~~a wage or salary which cost is, in whole or in part,~~
12 ~~reimbursed by the federal government pursuant to a contract~~
13 ~~or memorandum of understanding between the federal~~
14 ~~government and the guard to perform duties related to~~
15 ~~national security, homeland security and other military-~~
16 ~~related or -sponsored programs.~~

17 (e) “PEIA” means Public Employees Insurance Act.

18 (f) “PERS” means Public Employees Retirement System.

§15-1J-4. Establishment and general powers of the authority.

1 (a) The West Virginia Military Authority is hereby
2 established to administer national security, homeland
3 security and other military-related or -sponsored programs.
4 ~~that provide for the reimbursement, in whole or in part, of~~
5 ~~employee wages or salaries pursuant to a contract or~~
6 ~~memorandum of understanding between the federal~~
7 ~~government and the guard. The authority to administer~~
8 ~~programs granted in this subsection shall terminate when~~
9 ~~federal funds are no longer available to provide~~
10 ~~reimbursement of salaries or wages.~~

11 (b) The authority will be administered by the Adjutant
12 General and the Adjutant General's department.

13 (c) Funds provided by the federal government and any
14 state funds authorized by appropriation of the Legislature
15 used as a required match to secure federal funding for
16 programs administered by the authority pursuant to this
17 section shall be administered by the Adjutant General subject
18 to the provisions of article eleven, chapter four of this code.

19 (d) Except as otherwise prohibited by statute, the
20 authority, as a governmental instrumentality exercising
21 public powers of the state, shall have and may exercise all
22 powers necessary or appropriate to carry out the purpose of
23 this article, including the authority to:

24 (1) Execute cooperative agreements between the guard
25 and the federal and/or state governments;

26 (2) Contract on behalf of the guard with the federal
27 government, its instrumentalities and agencies, ~~the~~ any state,
28 territory or the District of Columbia and its agencies and

29 instrumentalities, municipalities, foreign governments, public
30 bodies, private corporations, partnerships, associations and
31 individuals;

32 (3) Use funds administered by the authority pursuant to
33 subsection (c) of this section for the maintenance,
34 construction or reconstruction of capital repair and
35 replacement items as necessary and approved by the
36 authority;

37 (4) Accept and use funds from the federal government,
38 its instrumentalities and agencies, any state, territory or the
39 District of Columbia and its agencies and instrumentalities,
40 municipalities, foreign governments, public bodies, private
41 corporations, partnerships, associations and individuals for
42 the purposes of national security, homeland security and
43 other military-related or -sponsored programs;

44 ~~(4)~~ (5) Procure insurance with state funds through BRIM
45 covering property and other assets of the authority in
46 amounts and from insurers that BRIM determines necessary;

47 ~~(5)~~ (6) Hire employees at an appropriate salary
48 equivalent to a competitive wage rate;

49 ~~(6)~~ (7) Enroll employees in PERS, PEIA and workers'
50 compensation and unemployment programs, or their
51 equivalents: *Provided*, That the authority, through the receipt
52 of federal and/or state funds, pays the required employer
53 contributions;

54 ~~(7)~~ (8) Cooperate with economic development agencies
55 in efforts to promote the expansion of industrial, commercial
56 and manufacturing in the state;

57 ~~(8)~~ (9) Develop a human resources division that will
58 administer and manage its employees and receive state
59 matching funds as necessary to ensure maximum federal
60 funds are secured;

61 ~~(9)~~ (10) Due to the at-will employment relationship with
62 the authority, its employees may not avail themselves of the
63 state grievance procedure as set forth in article six-a, chapter
64 twenty-nine of this code; and

65 ~~(10)~~ (11) Have the ability to secure all other bonding,
66 insurance or other liability protections necessary for its
67 employees to fulfill their duties and responsibilities.

(NOTE: The purpose of this bill is to clarify the use of funds for national security, homeland security and other military-related or sponsored programs under the West Virginia Military Authority

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