

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Enrolled**

## **Senate Bill 552**

BY SENATORS MAYNARD AND CLINE

[Passed February 29, 2020; in effect from passage]



1 AN ACT to amend and reenact §22C-1-6 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring contracts of \$25,000 or more to be competitively bid.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 1. WATER DEVELOPMENT AUTHORITY.**

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

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

4 (1) Adopt and, from time-to-time, amend and repeal bylaws necessary and proper for the  
5 regulation of its affairs and the conduct of its business and rules to implement and make effective  
6 its powers and duties, such rules to be promulgated in accordance with the provisions of chapter  
7 29A of this code.

8 (2) Adopt an official seal.

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

11 (4) Sue and be sued in its own name and plead and be impleaded in its own name and  
12 particularly to enforce the obligations and covenants made under §22C-1-9, §22C-1-10, and  
13 §22C-1-16 of this code. Any actions against the authority shall be brought in the circuit court of  
14 Kanawha County in which the principal office of the authority shall be located.

15 (5) Make loans and grants to governmental agencies for the acquisition or construction of  
16 water development projects by any such governmental agency and, in accordance with the  
17 provisions of chapter 29A of this code, adopt rules and procedures for making such loans and  
18 grants.

19 (6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair,  
20 operate, lease or rent to, or contract for operation by a governmental agency or person, water

21 development projects and, in accordance with the provisions of chapter 29A of this code, adopt  
22 rules for the use of such projects.

23 (7) Make available the use or services of any water development project to one or more  
24 persons, one or more governmental agencies, or any combination thereof.

25 (8) Issue water development revenue bonds and notes and water development revenue  
26 refunding bonds of the state, payable solely from revenues as provided in §22C-1-9 of this code  
27 unless the bonds are refunded by refunding bonds, for the purpose of paying all or any part of the  
28 cost of, or financing by loans to governmental agencies, one or more water development projects  
29 or parts thereof.

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

32 (10) Acquire in the name of the state, by purchase or otherwise, on such terms and in  
33 such manner as it deems proper, or by the exercise of the right of eminent domain in the manner  
34 provided in chapter 54 of this code, such public or private lands, or parts thereof or rights therein,  
35 rights-of-way, property, rights, easements, and interests it deems necessary for carrying out the  
36 provisions of this article, but excluding the acquisition by the exercise of the right of eminent  
37 domain of any public water facilities, stormwater systems, or wastewater facilities, operated under  
38 permits issued pursuant to the provisions of §22-11-1 *et seq.* of this code and owned by any  
39 person or governmental agency, and compensation shall be paid for public or private lands so  
40 taken.

41 (11) Make and enter into all contracts and agreements and execute all instruments  
42 necessary or incidental to the performance of its duties and the execution of its powers. When  
43 the cost under any such contract or agreement, other than compensation for personal services,  
44 involves an expenditure of more than \$25,000, the authority shall make a written contract with  
45 the lowest responsible bidder after public notice published as a Class II legal advertisement in  
46 compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area for such

47 publication to be the county wherein the work is to be performed or which is affected by the  
48 contract, which notice shall state the general character of the work and the general character of  
49 the materials to be furnished, the place where plans and specifications therefor may be examined,  
50 and the time and place of receiving bids, but a contract or lease for the operation of a water  
51 development project constructed and owned by the authority or an agreement for cooperation in  
52 the acquisition or construction of a water development project pursuant to §22C-1-16 of this code  
53 is not subject to the foregoing requirements and the authority may enter into such contract or  
54 lease or such agreement pursuant to negotiation and upon such terms and conditions and for  
55 such period as it finds to be reasonable and proper under the circumstances and in the best  
56 interests of proper operation or of efficient acquisition or construction of such project. The  
57 authority may reject any and all bids. A bond with good and sufficient surety, approved by the  
58 authority, is required of all contractors in an amount equal to at least 50 percent of the contract  
59 price, conditioned upon the faithful performance of the contract.

60 (12) Employ managers, superintendents, and other employees, who are covered by the  
61 state civil service system, and retain or contract with consulting engineers, financial consultants,  
62 accounting experts, architects, attorneys, and such other consultants and independent  
63 contractors as are necessary in its judgment to carry out the provisions of this article and fix the  
64 compensation or fees thereof. All expenses thereof are payable solely from the proceeds of water  
65 development revenue bonds or notes issued by the authority, from revenues, and from funds  
66 appropriated for such purpose by the Legislature.

67 (13) Receive and accept from any federal agency, subject to the approval of the Governor,  
68 grants for or in aid of the construction of any water development project or for research and  
69 development with respect to public water facilities, stormwater systems, or wastewater facilities  
70 and receive and accept aid or contributions from any source of money, property, labor, or other  
71 things of value to be held, used and applied only for the purposes for which such grants and  
72 contributions are made.

73           (14) Engage in research and development with respect to public water facilities,  
74 stormwater systems, or wastewater facilities.

75           (15) Purchase property coverage and liability insurance for any water development project  
76 and for the principal office and suboffices of the authority, insurance protecting the authority and  
77 its officers and employees against liability, if any, for damage to property or injury to or death of  
78 persons arising from its operations and any other insurance the authority may agree to provide  
79 under any resolution authorizing the issuance of water development revenue bonds or in any trust  
80 agreement securing the same.

81           (16) Charge, alter, and collect rentals and other charges for the use or services of any  
82 water development project as provided in this article and charge and collect reasonable interest,  
83 fees, and charges in connection with the making and servicing of loans to governmental agencies  
84 in the furtherance of the purposes of this article.

85           (17) Establish or increase reserves from moneys received or to be received by the  
86 authority to secure or to pay the principal of and interest on the bonds and notes issued by the  
87 authority pursuant to this article.

88           (18) Administer on behalf of the Department of Environmental Protection the Dam Safety  
89 Rehabilitation Revolving Fund Loan Program pursuant to the provisions of §22-14-1 *et seq.* of  
90 this code. Revenues or moneys designated by this code or otherwise appropriated for use by the  
91 authority pursuant to the provisions of this article may not be used for the Dam Safety  
92 Rehabilitation Revolving Fund Loan Program and moneys in the Dam Safety Rehabilitation  
93 Revolving Fund shall be kept separate from all revenues and moneys of the authority.

94           (19) Do all acts necessary and proper to carry out the powers expressly granted to the  
95 authority in this article.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2020.

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*Governor*