

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2667

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[Introduced February 23, 2021; Referred to the
Committee on Energy and Manufacturing then
Finance]

1 A BILL to amend and reenact §5A-3B-1 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new section, designated §5A-3B-3; and to amend
 3 said code by adding thereto two new sections, designated §5A-4-7 and §5A-4-8; and to
 4 amend and reenact §5B-2F-2 of said code, all relating to energy savings in state owned
 5 buildings; providing prequalification of energy savings performance contractors; adoption
 6 of energy savings goals for state buildings; auditing energy metering devices installed for
 7 state buildings; and benchmarking and energy efficiency grading for state buildings.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3B. ENERGY-SAVINGS CONTRACTS.

§5A-3B-1. Definitions.

1 As used in this article:

2 (a) "Agency" means any state department, division, office, commission, authority, board
 3 or other unit authorized by law to enter into contracts for the provision of goods or services;

4 (b) "Energy-conservation measures" means goods or services, or both, to reduce energy
 5 consumption operating costs of agency facilities. They include, but are not limited to, installation
 6 of one or more of the following:

7 (1) Insulation of a building structure and systems within a building;

8 (2) Storm windows or doors, caulking or weather stripping, multiglazed windows or doors,
 9 heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or
 10 door modifications that reduce energy consumption;

11 (3) Automatic energy control systems;

12 (4) Heating, ventilating or air conditioning systems, including modifications or
 13 replacements;

14 (5) Replacement or modification of lighting fixtures to increase energy efficiency;

15 (6) Energy recovery systems;

16 (7) Cogeneration systems that produce steam or another form of energy for use by any
17 agency in a building or complex of buildings owned by the agency; or

18 (8) Energy-conservation maintenance measures that provide long-term operating cost
19 reductions of the building's present cost of operation.

20 (c) "Energy-savings contract" means a performance-based contract for the evaluation and
21 recommendation of energy operations conservation measures and for implementation of one or
22 more measures.

23 (d) "Qualified provider" means a person, firm or corporation experienced in the design,
24 implementation and installation of energy conservation measures, using sound engineering and
25 financial practices, as prequalified and certified by the Department of Administration, General
26 Services Division.

§5A-3B-3. Energy Savings Contracting Program.

1 The Secretary shall establish an energy savings contracting program to support the design
2 and installation of energy-savings contracts. Such program shall include:

3 (1) The development and provision of model, template, or standardized contracts,
4 guidelines, procedures, manuals, and other related documents regarding the use of energy-
5 savings contracts; and

6 (2) Prequalification and certification of energy savings performance contractors to identify
7 qualified providers, with an update at least annually, by requesting a statement of qualifications,
8 which at a minimum shall include prior experience, capabilities of contractor, and financial and
9 performance information.

ARTICLE 4. GENERAL SERVICES DIVISION.

§5A-4-7. Energy savings program.

1 No later than October 1, 2021, the secretary shall establish an energy savings program
2 designed to reduce energy usage for electricity, natural gas, fuel oil, and steam in all state
3 buildings under the care, custody, and control of the General Services Division by 25% below
4 2020 levels by 2030. The secretary shall report annually to the Legislature regarding the energy-
5 conservation measures as defined by §5A-3B-1(b) of this code, installed under the energy savings
6 program, achieved reductions in energy usage, and additional energy-conservation measures, if
7 any, necessary to achieve the required reductions by 2030. The secretary is authorized to enter
8 into energy-savings contracts as defined in §5A-3B-1(c) of this code, as necessary, to implement
9 the energy savings program. Energy-savings contracts entered into as part of the energy savings
10 program shall require an annual energy audit performed by the contractor, which shall include (1)
11 A comparative analysis of anticipated to actual energy savings; and (2) the terms and conditions
12 of agency payment and performance guarantees. Any such performance guarantees shall
13 provide that the contractor is responsible for maintenance and repair services for any energy
14 related equipment, including computer software.

§5A-4-8. Disclosure of energy usage.

1 No later than July 1, 2021, the secretary shall establish a program for measuring and
2 benchmarking the energy, including electricity, natural gas, fuel oil, and steam, efficiency of all
3 state buildings under custody and control of the General Services Division. Such program shall
4 use the benchmarking tool Energy Star Portfolio Manager® operated by the United States
5 Environmental Protection Agency. No later than October 1, 2021 and each year thereafter, the
6 secretary shall compile and submit energy usage data for all state buildings to such benchmarking
7 tool. The secretary shall report annually to the Legislature regarding the building energy
8 performance compared to similar buildings in similar climates, as determined by the Energy Star
9 Portfolio Manager®.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2F. DIVISION OF ENERGY.

§5B-2F-2. Purpose; Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and office to promote energy initiatives.

1 (a) Effective July 1, 2017, the Division of Energy is hereby continued, but shall be
2 designated and known as the Office of Energy and shall be organized within the Development
3 Office of the Department of Commerce. All references throughout this code to the Division of
4 Energy shall be construed to refer to the Office of Energy. The office may receive federal funds.

5 (b) The office is intended to provide leadership for developing energy policies emphasizing
6 the increased efficiency of energy use, the increased development and production of new and
7 existing domestic energy sources, the increased awareness of energy use on the environment
8 and the economy, dependable, efficient and economical statewide energy systems capable of
9 supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous
10 to imported energy use is increased, reduce the ratio energy consumption to economic activity
11 and maintain low-cost energy. The energy policies and development plans shall also provide
12 direction for the private sector.

13 (c) The office shall have authority over the energy efficiency program existing under the
14 West Virginia Development Office.

15 (d) The office shall develop an energy policy and shall report the same back to the
16 Governor and the Joint Committee on Government and Finance before December 1, 2007. The
17 energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a
18 direction for the private sector. Prior to the expiration of the energy policy, the office shall begin
19 review of the policy and submit a revised energy policy to the Governor and the Joint Committee
20 on Government and Finance six months before the expiration of the policy.

21 (e) The office shall prepare and submit an annual energy development plan to the
22 Governor and the Joint Committee on Government and Finance on or before December 1 of each
23 year. The development plan shall relate to the office's implementation of the energy policy and
24 the activities of the office during the previous year. The development plan shall include any
25 recommended legislation. The Public Energy Authority, the Office of Coalfield Community
26 Development, the energy efficiency program, the Department of Environmental Protection and
27 the Public Service Commission, in addition to their other duties prescribed by this code, shall
28 assist the office in the development of an energy policy and related development plans. The
29 energy development plan shall set forth the plans for implementing the state's energy policy and
30 shall provide a direction for the private sector. The energy development plan shall recognize the
31 powers of the Public Energy Authority as to development and financing of projects under its
32 jurisdiction and shall make such recommendations as are reasonable and practicable for the
33 exercise of such powers.

34 (f) The office shall hold public hearings and meetings with notice to receive public input
35 regarding proposed energy policies and development plans. The energy policy and development
36 plans required by subsections (d) and (e) of this section shall address increased efficiency of
37 energy use, traditional and alternative energy, water as a resource and a component of energy
38 production, energy distribution systems, the siting of energy facilities, the increased development
39 and production of new and existing domestic energy sources, increased awareness of energy use
40 on the environment and the economy, energy infrastructure, the development and implementation
41 of renewable, clean, technically innovative and advanced energy projects in this state. Projects
42 may include, without limitation, solar and wind energy, low-impact hydro power, geothermal,
43 biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine
44 methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal
45 liquefaction technologies.

46 (g) The office may propose rules for legislative approval in accordance with the provisions
47 of article three, chapter twenty-nine-a of this code designed to implement an energy policy and
48 development plan in accordance with the provisions of this chapter.

49 (h) The energy policy and development plans required by subsections (d) and (e) of this
50 section shall identify and report on the energy infrastructure in this state and include without
51 limitation energy infrastructure related to protecting the state's essential data, information systems
52 and critical government services in times of emergency, inoperativeness or disaster. In
53 consultation with the Director of the Division of Homeland Security and Emergency Management,
54 the office shall encourage the development of energy infrastructure and strategic resources that
55 will ensure the continuity of governmental operations in situations of emergency, inoperativeness
56 or disaster.

57 (i) In preparing or revising the energy policy and development plan, the office may rely
58 upon internal staff reports or the advice of outside advisors or consultants and may procure such
59 services with the consent of the Secretary of Commerce. The office may also involve national,
60 state and local government leadership and energy experts.

61 (j) The office shall prepare an energy use database, including without limitation, end-use
62 applications and infrastructure needs for different classes of energy users including residential,
63 commercial and industrial users, data regarding the interdependencies and sources of electricity,
64 oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned
65 facilities and collect data on the impact of the energy policy and development plan on the
66 decisions and strategies of energy users of the state.

67 (k) The office shall promote collaboration between the state's universities and colleges,
68 private industry and nonprofit organizations to encourage energy research and leverage available
69 federal energy research and development resources.

70 (l) The office shall promote initiatives to enhance the nation's energy security through
71 research and development directed at transforming the state's energy resources into the
72 resources that fuel the nation.

73 (m) The office shall work with the President of the United States and his or her
74 administration to develop a plan that would allow West Virginia to become the leader in
75 transitioning the United States to a new energy future.

76 (n) The office is to determine the best way for West Virginia to utilize its resources and
77 any federal funding to develop the technologies that are necessary for such a transition.

78 (o) The office is to clearly articulate West Virginia's position on an energy solution for the
79 United States that encompasses clean coal, natural gas, transtech energy technologies and
80 renewable energy technologies.

81 (p) The office shall develop and distribute an informational program and policies that
82 emphasize the importance of West Virginia energy resources and their positive impact on the
83 eastern seaboard and the nation.

84 (q) The office shall monitor legal challenges to the energy industries in the state and submit
85 a report quarterly to the Joint Committee on Government and Finance. The report shall contain
86 information relating to any litigation that challenges any statute that could affect the production,
87 distribution and utilization of natural resources of the state.

88 (r) The office shall develop and administer a program for auditing the energy metering
89 devices for both electricity and natural gas currently installed at state buildings for purposes of
90 determining whether such devices are active or inactive. Such program shall be designed to audit
91 no fewer than 20 percent (20%) of the energy metering devices each year to enable completion
92 of the audit of all such devices no later than January 1, 2027. In the event the office determines
93 during such audit that an energy metering device is no longer active, it shall notify the energy
94 service provider to request (1) removal of such device and (2) adjustment of utility bills
95 prospectively to remove any charge associated with such meter.

NOTE: The purpose of this bill is to promote cost savings for state taxpayers by implementing an energy savings program for assessment and implementation of energy savings goals for state buildings; providing for prequalification of energy savings performance contractors; auditing energy metering devices installed at state buildings; and establishing benchmarking and energy efficiency goals for state buildings.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.