

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2706

BY DELEGATES CAPITO AND L. PACK

[Introduced February 23, 2021; Referred to the
Committee on Finance]

1 A BILL to amend and reenact §31-15-6 of the Code of West Virginia, 1931, as amended, relating
2 to authorizing and permitting the Economic Development Authority to make working
3 capital loans from a revolving loan fund capitalized with federal grant funds including those
4 federal grant funds received from the United States Economic Development
5 Administration.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-6. General powers of authority.

1 The authority, as a public corporation and governmental instrumentality exercising public
2 powers of the state, shall have and may exercise all powers necessary or appropriate to carry out
3 the purposes of this article, including the power:

4 (a) To cooperate with industrial development agencies in efforts to promote the expansion
5 of industrial, commercial, manufacturing and tourist activity in this state.

6 (b) To determine, upon the proper application of an industrial development agency or an
7 enterprise, whether the declared public purposes of this article have been or will be accomplished
8 by the establishment by such agency or enterprise of a project in this state.

9 (c) To conduct examinations and investigations and to hear testimony and take proof,
10 under oath or affirmation, at public or private hearings, on any matter relevant to this article and
11 necessary for information on the establishment of any project.

12 (d) To issue subpoenas requiring the attendance of witnesses and the production of books
13 and papers relevant to any hearing before such authority or one or more members appointed by
14 it to conduct any hearing.

15 (e) To apply to the circuit court having venue of such offense to have punished for
16 contempt any witness who refuses to obey a subpoena, to be sworn or affirmed or to testify or
17 who commits any contempt after being summoned to appear.

18 (f) To authorize any member of the authority to conduct hearings, administer oaths, take

19 affidavits and issue subpoenas.

20 (g) To financially assist projects by insuring obligations in the manner provided in this
21 article through the use of the insurance fund.

22 (h) To finance any projects by making loans to industrial development agencies or
23 enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing
24 contained in this subsection (h) or under any other provision in this article shall be construed as
25 permitting the authority to make loans for working capital: *Provided, however*, That nothing
26 contained in this article shall be construed as prohibiting the authority from insuring loans for
27 working capital made to industrial development agencies or to enterprises by financial institutions:
28 *Provided further*, That nothing contained in this subsection or any other provision of this article
29 shall be construed as permitting the authority to refinance existing debt except when such
30 refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the
31 creation of new jobs: *And provided further*, That nothing contained in this subsection or any other
32 provision of this article shall be construed as prohibiting the authority from making working capital
33 loans from a revolving loan fund capitalized with federal grant funds including, but not limited to,
34 federal grant funds received from the United States Economic Development Administration.

35 (i) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the
36 payment of such bonds or notes, all as hereinafter provided.

37 (j) To issue and deliver revenue bonds or notes in exchange for a project.

38 (k) To borrow money for its purposes and issue bonds or notes for the money and provide
39 for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the
40 bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and
41 property of the project, including any part of the security for loans, and the authority may issue
42 and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem
43 necessary to provide funds for any purposes under this article, including the making of loans for
44 the purposes set forth in this article.

45 (l) To maintain such sinking funds and reserves as the board shall determine appropriate
46 for the purposes of meeting future monetary obligations and needs of the authority.

47 (m) To sue and be sued, implead and be impleaded, and complain and defend in any
48 court.

49 (n) To adopt, use and alter at will a corporate seal.

50 (o) To make, amend, repeal and adopt both bylaws and rules and regulations for the
51 management and regulation of its affairs.

52 (p) To appoint officers, agents and employees and to contract for and engage the services
53 of consultants.

54 (q) To make contracts of every kind and nature to execute all instruments necessary or
55 convenient for carrying on its business: *Provided*, That the provisions of §5A-3-3 of this code do
56 not apply to contracts made pursuant to this subdivision.

57 (r) To accept grants and loans from and enter into contracts and other transactions with
58 any federal agency.

59 (s) To take title by conveyance or foreclosure to any project where acquisition is necessary
60 to protect any loan previously made by the authority and to sell, by public or private sale, transfer,
61 lease or convey such project to any enterprise.

62 (t) To participate in any reorganization proceeding pending pursuant to the United States
63 Code (being the act of Congress establishing a uniform system of bankruptcy throughout the
64 United States, as amended) or in any receivership proceeding in a state or federal court for the
65 reorganization or liquidation of an enterprise. The authority may file its claim against any such
66 enterprise in any of the foregoing proceedings, vote upon any questions pending therein which
67 requires the approval of the creditors participating in any reorganization proceeding or
68 receivership, exchange any evidence of such indebtedness for any property, security or evidence
69 of indebtedness offered as a part of the reorganization of such enterprise or of any other entity
70 formed to acquire the assets thereof and may compromise or reduce the amount of any

71 indebtedness owing to it as a part of any such reorganization.

72 (u) To acquire, construct, maintain, improve, repair, replace and operate projects within
73 this state, as well as streets, roads, alleys, sidewalks, crosswalks and other means of ingress and
74 egress to and from projects located within this state.

75 (v) To acquire, construct, maintain, improve, repair and replace and operate pipelines,
76 electric transmission lines, waterlines, sewer lines, electric power substations, waterworks
77 systems, sewage treatment and disposal facilities and any combinations thereof for the use and
78 benefit of any enterprise located within this state.

79 (w) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses
80 and any and all other property, property rights and appurtenances for the use and benefit of any
81 enterprise located within this state.

82 (x) To acquire, by purchase, lease, donation or eminent domain, any real or personal
83 property, or any right or interest therein, as may be necessary or convenient to carry out the
84 purposes of the authority. Title to all property, property rights and interests acquired by the
85 authority shall be taken in the name of the authority.

86 (y) To issue renewal notes, or security interests, to issue bonds to pay notes or security
87 interests and, whenever it deems refunding expedient, to refund any bonds or notes by the
88 issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not
89 matured and whether or not the authority originally issued the bonds or notes to be refunded.

90 (z) To apply the proceeds from the sale of renewal notes, security interests or refunding
91 bonds or notes to the purchase, redemption or payment of the notes, security interests or bonds
92 or notes to be refunded.

93 (aa) To accept gifts or grants of property, funds, security interests, money, materials, labor,
94 supplies or services from the United States of America or from any governmental unit or any
95 person, firm or corporation, and to carry out the terms or provisions of, or make agreements with
96 respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable

97 or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

98 (bb) To the extent permitted under its contracts with the holders of bonds, security interests
99 or notes of the authority, to consent to any modification of the rate of interest, time of payment of
100 any installment of principal or interest, security or any other term of any bond, security interests,
101 note or contract or agreement of any kind to which the authority is a party.

102 (cc) To sell loans, security interests or other obligations in the loan portfolio of the authority.
103 Such security interests shall be evidenced by instruments issued by the authority. Proceeds from
104 the sale of loans, security interests, or other obligations may be used in the same manner and for
105 the same purposes as bond and note revenues.

106 (dd) To procure insurance against any losses in connection with its property, operations
107 or assets in such amounts and from such insurers as the authority deems desirable.

108 (ee) To sell, license, lease, mortgage, assign, pledge or donate its property, both real and
109 personal, or any right or interest therein to another or authorize the possession, occupancy or use
110 of such property or any right or interest therein by another, in such manner and upon such terms
111 as it deems appropriate.

112 (ff) To participate with the state and federal agencies in efforts to promote the expansion
113 of commercial and industrial development in this state.

114 (gg) To finance, organize, conduct, sponsor, participate and assist in the conduct of
115 special institutes, conferences, demonstrations and studies relating to the stimulation and
116 formation of business, industry and trade endeavors.

117 (hh) To conduct, finance and participate in technological, business, financial and other
118 studies related to business and economic development.

119 (ii) To conduct, sponsor, finance, participate and assist in the preparation of business
120 plans, financing plans and other proposals of new or established businesses suitable for support
121 by the authority.

122 (jj) To prepare, publish and distribute, with or without charge as the authority may

123 determine, such technical studies, reports, bulletins and other materials as it deems appropriate,
124 subject only to the maintenance and respect for confidentiality of client proprietary information.

125 (kk) To exercise such other and additional powers as may be necessary or appropriate for
126 the exercise of the powers herein conferred.

127 (ll) To exercise all of the powers which a corporation may lawfully exercise under the laws
128 of this state.

129 (mm) To contract for the provision of legal services by private counsel, and
130 notwithstanding the provisions of §5-3-1 *et seq.* of this code, such counsel may, but is not limited
131 to, represent the authority in court, negotiate contracts and other agreements on behalf of the
132 authority, render advice to the authority on any matter relating thereto, prepare contracts and
133 other agreements, and provide such other legal services as may be requested by the authority.

134 (nn) To develop, maintain, operate and apply for the establishment of foreign trade zones
135 pursuant to and in accordance with all applicable provisions of federal law.

136 (oo) To exercise the powers and responsibilities previously vested in the state building
137 commission by §5-6-11a of this code including, but not limited to, the authority to refund bonds
138 issued in accordance with that section.

NOTE: The purpose of this bill is to permit the West Virginia Economic Development Authority to make working capital loans from a revolving loan fund capitalized with federal grant funds including those grant funds received from the United States Economic Development Administration.

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