

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3198

**FISCAL
NOTE**

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[Introduced March 16, 2021; Referred to the
Committee on Small Business, Entrepreneurship and
Economic Development then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5B-2K-1, §5B-2K-2, §5B-2K-3, §5B-2K-4, §5B-2K-5, §5B-2K-6, and §5B-2K-
 3 7, all relating to establishing a program to facilitate the recovery of areas of the state that
 4 have been impacted by the reduction of coal production and consumption; providing
 5 legislative findings; authorizing the Department of Commerce to administer the program;
 6 providing for a Just Transition Advisory Committee to study and advise the department;
 7 defining terms; requiring submission of plans to the Legislature; providing that certain coal
 8 operations and electric utilities provide information to the department relating to job losses
 9 when a facility is closing; and providing for expiration of the article.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2J. COAL COMMUNITY COMEBACK.

§5B-2K-1. Legislative findings.

1 (a) Since employing 63,000 workers in 1978, employment in West Virginia's coal industry
 2 has declined. In 2018, only 12,000 workers were employed at West Virginia coal mines.

3 (b) The nation's power sector is moving away from its reliance on coal. Since 2010,
 4 approximately 300 coal-fired power plants have shut down. While coal powered approximately
 5 half of the nation's electricity generation for decades, it only powered 27 percent of generation in
 6 2018. According to Moody's, coal-based electricity generation may fall to 11 percent of the
 7 nation's total generation by 2030. The closure of coal-fired power plants nationwide is likely to
 8 have a serious impact on employment in West Virginia's coal mines and the transportation and
 9 logistics supply chains that move coal from mine to market.

10 (c) The effects of coal mine and coal-fired power plant closures on workers and
 11 communities have already been significant and have the potential to become even more
 12 significant if not managed correctly. Many of these jobs provide family-supporting wages and

13 benefits. The communities that host closing coal mines and retiring power plants may lose
14 principal contributors to their tax base and revenue for vital local government services.

15 (d) Coordinated leadership within West Virginia's state government is essential to align
16 and deliver assistance to these impacted communities and workers.

17 (e) A strong and comprehensive policy is also needed to invest new financial resources in
18 communities affected by the decline of the coal economy that are seeking to diversify and grow
19 their local and regional economies in a manner that is both sustainable and equitable.

20 (f) West Virginia will thrive when all of its regions, counties, and communities offer diverse
21 employment opportunities with family-supporting wages and benefits.

§5B-2K-2. Definitions.

1 As used in this article, unless the context otherwise requires:

2 "Advisory committee" means the Coal Community Comeback Advisory Committee
3 established pursuant to section four of this article;

4 "Coal-related employment" means employment in the coal industry, or an industry
5 dependent on coal production, consumption or distribution;

6 "Impacted community" means a county that contains one or more census tracts in which
7 a coal mine or a coal-fired plant has closed after December 31, 1999, causing a loss of at least
8 200 jobs;

9 "Impacted worker" means a West Virginia worker laid off from coal-related employment
10 who has not found employment with similar wages or benefits;

11 "Department" means the Department of Commerce;

12 "Coal Community Comeback Plan" means the plan outlined in §5B-2K-5 of this code, in
13 draft or final form, prepared by the Advisory Committee and submitted by the Secretary as
14 provided in §5B-2K-4 and §5B-2K-3 of this code;

15 "Secretary" means the Cabinet Secretary of the Department of Commerce; and

16 "Workforce Transition Plan" means a plan submitted by a coal mining operation or electric

17 utility, as outlined in §5B-2K-6 of this code.

§5B-2K-3. Coal community comeback planning required.

1 (a) The Secretary of the Department or his or her designee shall initiate a new planning
2 process focused on coal community revitalization, which included the following tasks:

3 (1) Identify or estimate, to the extent practicable, the timing and location of facility closures
4 and job layoffs in coal-related employment in impacted communities, and their effect on impacted
5 workers, businesses, and communities, and together with the Advisory Committee provide
6 planning and make recommendations to the Legislature as to how the office, the department, and
7 other state agencies can most effectively respond to these economic dislocations;

8 (2) Provide administrative, logistical, research, and policy support to the Advisory
9 Committee's work as established pursuant to §5B-2k-4 of this code;

10 (3) Based on the draft Coal Community Comeback Plan recommended by the Advisory
11 Committee, pursuant to §5B-2K-4 and §5B-2K-5 of this code, and with the approval of the
12 Secretary, on or before December 31, 2021, the Secretary shall submit to the Governor and the
13 Legislature a final Coal Community Comeback Plan for West Virginia.

14 (b) After the final Coal Community Comeback Plan is submitted, the Secretary or his or
15 her designee shall continue to conduct studies and facilitate resources for impacted communities
16 to:

17 (1) Facilitate new and diverse economic activities;

18 (2) Facilitate planning for the management and redevelopment of former coal mines,
19 former coal-fired power plants, residential housing, and commercial building stock in the impacted
20 community;

21 (3) Offer any other appropriate activities to assist impacted communities in the
22 preservation, renewal, and removal of underutilized and dilapidated buildings; and

23 (4) Provide assistance to local governments to facilitate economic development and
24 diversification, planning, and the preservation and revitalization of local community assets and

25 resources.

§5B-2K-4. Coal Community Comeback Advisory Committee established.

1 (a) There is hereby created the “Coal Community Comeback Advisory Committee” to
2 develop and recommend a Coal Community Comeback Plan for the State of West Virginia.

3 (b) The Advisory Committee consists of the following members:

4 (1) The Commissioner of the Division of Labor or a designee;

5 (2) The Director of the Office of Economic Development or a designee;

6 (3) The Director of the Department of Commerce or a designee;

7 (4) One representative of the Office of the Governor;

8 (5) One member of the Senate appointed by the president of the Senate, and one member
9 of the House of Delegates, appointed by the Speaker of the House; and

10 The following members, to be appointed by the Secretary:

11 (6) Two representatives of labor unions;

12 (7) Three representatives of impacted workers from impacted communities;

13 (8) Two representatives with professional economic development or workforce retraining
14 experience; and

15 (9) Two representatives of utilities that, on the effective date of this section, operated one
16 or more coal-fueled electric generating units.

17 (c) The Advisory Committee shall elect a chairperson from among its members to serve
18 for a term not to exceed two years, as determined by the Advisory Committee. The Advisory
19 Committee shall meet at least once every quarter. The chairperson may call such additional
20 meetings as are necessary for the Advisory Committee to complete its duties.

21 (d) Each member of the Advisory Committee is entitled to receive reimbursement for
22 actual and necessary expenses pursuant to §4-2A-6 of this code.

23 (e) The Advisory Committee may engage additional nonvoting members or advisors and
24 provide additional expertise as needed.

5B-2K-5. Coal Community Comeback Plan.

1 (a) The Coal Community Comeback Plan drafted by the Advisory Committee shall include,
2 at a minimum:

3 (1) Grants and other local, state, federal, and other sources of funding that the department
4 shall identify, coordinate, and implement pursuant to the authority of this article to provide
5 assistance to impacted communities, including the establishment of grant programs to help
6 impacted communities, and recommendations to align and target existing local, state, and federal
7 funding resources and leverage additional funding resources to support impacted communities
8 and impacted workers;

9 (2) Other programs and activities that the department shall coordinate and implement
10 pursuant to the authority of this article to provide assistance to impacted communities, and
11 recommendations to align and target existing local, state, and federal programs and activities and
12 establish additional programs and activities to support impacted communities and impacted
13 workers; and

14 (3) Recommendations for legislation, studies, and other activities at the initiative of the
15 department and under the direction of the Legislature that require additional legislative authority
16 or appropriation to implement, including but not limited to the creation of a fund to collect and
17 distribute public revenue to address shortfalls in funding for counties, school systems, and
18 municipalities in impacted communities; and

19 (4) Planning of and facilitation of innovative land use and economic development activities
20 that impacted communities can use to diversify their economies.

21 (b) In developing the draft Coal Community Comeback Plan, the Advisory Committee shall
22 identify and consider:

23 (1) The projected short-term and long-term costs and benefits to the state of each plan
24 component, and other supports;

25 (2) Potential sources for sustainable short-term and long-term funding for a Coal

26 Community Comeback Plan and its components;

27 (3) The potential fiscal, economic, workforce, and other implications of extending
28 components of the Coal Community Comeback Plan to other sectors and industries affected by
29 similar economic disruptions; and

30 (4) Which components of the Coal Community Comeback Plan can be implemented under
31 existing authority and which require additional legislation.

32 (c) Prior to final adoption of the Coal Community Comeback Plan, the Advisory Committee
33 shall hold at least three public hearings in the state, with at least one hearing held in each
34 congressional district of the state.

35 (d) On or before July 1, 2022, the Advisory Committee shall present its draft Coal
36 Community Comeback Plan to the Secretary.

5B-2K-6. Coal mine and electric utility Workforce Transition Plans; reemployment of affected workers.

1 (a) The following entities shall submit to the department and to the affected community a
2 Workforce Transition Plan within the specified time period:

3 (1) Coal mining operations, within 60 days of submission of a federally mandated WARN
4 notice of pending closure of any surface or underground coal mining operation pursuant to United
5 States Code 29 U.S.C. §2101 et seq., or

6 (2) Electric utilities, within 30 days after the approval to accelerate retirement of a
7 generating unit by the utility's governing body and in no case less than six months before the
8 retirement of an electric coal-fueled generating unit that has a nameplate capacity of at least 50
9 megawatts.

10 (b) To the extent practicable, a Workforce Transition Plan must include estimates of:

11 (1) The number of workers employed at the facility or any contractor operating at the
12 facility;

13 (2) The total number of workers whose existing jobs, as a result of the closure of the

14 surface or underground coal mine, or retirement of the coal-fueled electric generating facility:

15 (A) Will be retained; and

16 (B) Will be eliminated;

17 (c) With respect to the workers whose existing jobs will be eliminated, the total number

18 and the number by job classification of workers:

19 (1) Whose employment will end without them being offered other employment;

20 (2) Who will retire as planned, be offered early retirement, or leave on their own;

21 (3) Who will be retained by being transferred to other facilities or offered other employment

22 by the operator; and

23 (4) For any coal-fueled electric generating facility, the number of workers who will be

24 retained to continue to work in a new job classification; and if the electric utility is replacing the

25 coal-fueled electric generating facility being retired with a new electric generating facility, the

26 number of:

27 (A) Workers from the retired coal-fueled electric generating facility who will be employed

28 at the new electric generating facility; and

29 (B) Jobs at the new electric generating facility that will be outsourced to contractors or

30 subcontractors.

§5B-2K-7. Expiration of article.

1 The provisions of this article shall expire and be of no force or effect, effective January 1,

2 2026.

NOTE: The purpose of this bill is to is to authorize the Department of Commerce to assist areas of the state where the coal industry has receded to assist those communities to rebuild their economies by diversifying the economic base of those areas; to address the impacts of the loss of coal related employment and economic activities on the local economy including the effects to housing, the tax base and the loss of population; and establishing a Coal Community Comeback Advisory Committee to advise the office to conduct studies and to facilitate innovative and new ideas to revise these areas of the state.

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