

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 542

BY SENATOR PHILLIPS

[Originating in the Committee on Energy, Industry,
and Mining; reported on March 11, 2021]

1 A BILL to amend and reenact §5D-1-2 and §5D-1-5 of the Code of West Virginia, 1931, as
2 amended; to amend said code by adding thereto two new sections, designated §5D-1-5C
3 and §5D-1-5D; and to amend said code by adding thereto a new section, designated §24-
4 2-21, all relating to the Public Energy Authority Act of West Virginia; providing procedures
5 to ensure that no more coal-fired plants close and long-term state prosperity is maintained;
6 providing legislative findings; establishing additional powers, duties, and responsibilities
7 of the West Virginia Public Energy Authority related to grid stability and homeland security;
8 establishing requirements for public utilities to maintain maximum output, to the extent
9 feasible, and to submit comprehensive operational plans to the West Virginia Public
10 Energy Authority and Public Service Commission of West Virginia; providing for advance
11 notification of retirement, shutdown, or sale of electricity generating units; and providing
12 criteria for the commission to consider in approving retirement, shutdown, or sale of
13 electricity generating units.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5D. PUBLIC ENERGY AUTHORITY ACT.

ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF WEST VIRGINIA.

§5D-1-2. Purpose and intent.

1 ~~(a)~~ The Legislature finds and declares that:

2 ~~(a) That (1)~~ The long-term health and economy of the United States will depend upon the
3 availability of reliable sources of energy;

4 ~~(b) That (2)~~ The State of West Virginia has abundant reserves of coal, natural gas and
5 other natural resources;

6 ~~(c) That (3)~~ The economy of the State of West Virginia needs a reliable and dependable
7 market for the state's coal, natural gas and other natural resources and the by-products thereof;

8 ~~(d) That (4)~~ The State of West Virginia needs to encourage the efficient utilization and

9 disposition of by-products resultant from the production of natural resources;

10 ~~(e) That (5)~~ With all due regard to the protection of the environment and husbandry of the
11 natural resources of this state, the health, happiness, safety, right of gainful employment and
12 general welfare of the citizens of this state will be promoted by the establishment and operation
13 of coal fired electric generating plants and transmission facilities and the establishment and
14 operation of natural gas transmission projects and/or other energy projects; ~~and~~

15 ~~(f) That (6)~~ The means and measures herein authorized for the financing, building and
16 operation of the facilities described in ~~subsection (e) subdivision (a)(5) of this subsection~~ are, as
17 a matter of public policy, for the public purpose of the state;

18 (7) Over 600 coal-fired electric units nationally have been forced to close;

19 (8) 18 coal-fired electric units within West Virginia's borders have been forced to close;

20 (9) Markets for West Virginia coal have been severely diminished due to the closure of
21 regional coal plants to the point that West Virginia coal shipments have been reduced from 162
22 coal plants a decade ago to only 43 plants today;

23 (10) West Virginia coal mines are forced to close, and West Virginia coal miners are forced
24 out of work and homeland security and homeland defense measures are compromised and
25 matters of long-term economic health, grid stability and resiliency are threatened;

26 (11) It is imperative the State of West Virginia take immediate steps to reverse these
27 undesirable trends to ensure that no more coal-fired plants close, no additional coal jobs are lost,
28 and long-term state prosperity is maintained;

29 (12) Throughout the past decade, no group has been hit harder by the decline of coal than
30 West Virginia's coal miners and their families. Many coal miners are struggling to make ends
31 meet and provide for their families;

32 (13) In addition to working towards sustaining coal employment levels and coal-based,
33 electric generation, the State of West Virginia should take immediate steps to provide education
34 and training and retraining opportunities for displaced coal miners and their families;

35 (14) Coal-fired power plants owned by electric utilities in West Virginia provide electric
36 utility customers in the state with reliable and affordable energy;

37 (15) West Virginia's access to coal reserves has provided the citizens of the state with
38 access to an energy resource that is affordable and accessible to coal-fired power plants in West
39 Virginia;

40 (16) Electric utilities, West Virginia rate-payers, and citizens have made considerable
41 investments in coal-fired power plants to comply with numerous environmental regulations;

42 (17) Electric utilities in West Virginia continue to modify and install environmental pollution
43 controls on power plants to comply with federal and state environmental regulatory requirements
44 to ensure that those facilities can continue to operate and serve the citizens of the state with
45 reliable and affordable energy;

46 (18) Efforts by electric utilities to comply with environmental regulatory requirements at
47 facilities used to generate coal-based electricity in this state involve the investment of capital and
48 incurrence of associated incremental costs. Because electric utilities are required to install
49 environmental pollution control equipment to comply with federal and state environmental
50 regulations, the electric utilities should be permitted to recover the incremental rate of return,
51 including related income taxes, depreciation, and property taxes associated with the
52 environmental control equipment that the utilities are required to install on power plant without
53 waiting for a full base-rate tariff filing;

54 (19) Matters generally related to homeland security and national defense are of paramount
55 importance to West Virginia and its residents and coal-fired power plants provide optimal
56 protection and resiliency toward state security and uninterrupted power supplies for household,
57 industrial, and military applications;

58 (20) West Virginia coal-fired power plants continue to provide base load generation critical
59 for maintaining slow, steady generation that produces power on a continuous cycle and ensures
60 grid stability and protects against overloads and power shortages;

61 (21) West Virginia coal and electricity generated in West Virginia are relied upon
62 throughout a multi-state region, thus playing a vital role in regional homeland security;

63 (22) West Virginia's coal fleet, comprised of nine individual plants and 25 units, is fueled
64 on average by a total of 25 million tons annually; accounts for over \$2 billion of economic activity;
65 and sustains approximately 3,500 mining jobs, 2,00 plant worker jobs, thousands of downstream
66 and indirect local and surrounding-county jobs, and hundreds of millions of dollars of payroll and
67 tax dollars; and

68 (23) The role of West Virginia and West Virginia coal in regional homeland security is of
69 paramount importance; thus, it is incumbent for our state to continue to provide leadership in this
70 increasingly critical area in order to sustain and protect our regional electric supplies.

71 (24) Electric utilities in West Virginia should be encouraged, to the extent feasible, to
72 continue to operate their coal-fired plants at maximum reasonable output and for the duration of
73 the expected useful life of the plants.

74 (b) Legislative purpose:

75 (1) Provide upgrade cost recovery measures and incentives for in-state power producers
76 to ensure optimal efficiencies, environmental regulatory compliance, and extended operational
77 plant life with improved heat rates, better emission controls, and improved overall performance;

78 (2) Compel in-state power producers to file compliance plans every three years with the
79 Public Energy Authority, pursuant to §5D-1-1 et seq. of this code, which shall specify their fuel
80 supply and total distribution of electricity; all necessary upgrades to be made in the next three-
81 year cycle; status of all upgrades completed, announced, or previously incorporated into the plan
82 for the previous cycle or cycles; and an accounting of all expenditures or costs which have been
83 recovered pursuant to this section, all of which may be incorporated into "Integrated Resource
84 Plans";

85 (3) Compel in-state power producers to maintain a 30-day "base fuel" supply on-site for
86 generation resiliency; and

87 (4) Empower the Public Energy Authority, pursuant to §5D-1-1 et seq. of this code, to
88 enforce the provisions of this chapter, monitor in-state public electric utilities, and generally
89 oversee the implementation of this chapter.

90 (c) Accordingly, the public energy authority created herein shall be authorized to may
91 initiate such directives and take such measures as may be necessary to effectuate the public
92 purpose of this chapter.

§5D-1-5. Powers, duties and responsibilities of authority generally; termination of certain powers.

1 (a) The West Virginia Public Energy Authority has and may exercise all powers necessary
2 or appropriate to execute its corporate purpose. The authority may:

3 (1) Adopt, amend, and repeal bylaws necessary and proper for the regulation of its affairs
4 and the conduct of its business and rules to implement and make effective its powers and duties,
5 such rules to be promulgated in accordance with ~~the provisions of~~ §29A-3-1 et seq. of this code.

6 (2) Adopt and use an official seal and alter the same at pleasure.

7 (3) Maintain a principal office and, if necessary, regional sub-offices at locations properly
8 designated or provided.

9 (4) Sue and be sued in its own name and plead and be impleaded in its own name, and
10 particularly to enforce the obligations and covenants made under this article. Any actions against
11 the authority shall be brought in the circuit court of Kanawha County.

12 (5) Foster, encourage and promote the mineral development industry. The authority is
13 encouraged to maximize the use of the West Virginia mineral development industry but is not
14 prohibited from utilizing nonstate mineral resources.

15 (6) Represent the state with respect to national initiatives concerning the mineral
16 development industry and international marketing activities affecting the mineral development
17 industry.

18 (7) Engage in strategic planning to enable the state to cope with changes affecting or

19 which may affect the mineral development industry.

20 (8) Acquire, whether by purchase, construction, gift, lease, lease-purchase or otherwise,
21 any electric power project or natural gas transmission project. In the event that an electric power
22 project to be constructed pursuant to this article is designed to utilize coal wastes for the
23 generation of electricity or the production of other energy, such project shall also be capable of
24 using coal as its primary energy input: *Provided*, That it shall be demonstrated to the authority's
25 satisfaction that quantities of coal wastes exist in amounts sufficient to provide energy input for
26 such project for the term of the bonds or notes issued by the authority to finance the project and
27 are accessible to the project.

28 (9) Lease, lease with an option by the lessee to purchase, sell, by installment sale or
29 otherwise, or otherwise dispose of, to persons other than governmental agencies, any or all of its
30 electric power projects or natural gas transmission projects for such rentals or amounts and upon
31 such terms and conditions as the Public Energy Authority Board may ~~deem~~ consider advisable.

32 (10) Finance one or more electric power projects or natural gas transmission projects by
33 making secured loans to persons other than governmental agencies to provide funds for the
34 acquisition, by purchase, construction or otherwise, of any such project or projects.

35 (11) Issue bonds for the purpose of financing the cost of acquisition and construction of
36 one or more electric power projects or natural gas transmission projects or any additions,
37 extensions or improvements thereto which will be sold, leased with an option by the lessee to
38 purchase, leased or otherwise disposed of to persons other than governmental agencies or for
39 the purpose of loaning the proceeds thereof to persons other than governmental agencies for the
40 acquisition and construction of said projects or both. ~~Such~~ The bonds shall be issued and the
41 payment of such bonds secured in the manner provided by the applicable provisions of §13-2C-
42 7 through 13 and §13-2C-17 of this code: *Provided*, That the principal and interest on such bonds
43 shall be payable out of the revenues derived from the lease, lease with an option by the lessee to
44 purchase, sale or other disposition of or from loan payments in connection with the electric power

45 project or natural gas transmission project for which the bonds are issued, or any other revenue
46 derived from such electric power project or natural gas transmission project.

47 (12) ~~In the event that~~ If the electric power project or natural gas transmission project is to
48 be owned by a governmental agency, apply to the economic development authority for the
49 issuance of bonds payable solely from revenues as provided in §32-15-1 *et seq.* of this code:
50 *Provided*, That the economic development authority shall not issue any such bonds except by an
51 act of general law: *Provided, however*, That the authority shall require that in the construction of
52 any such project, prevailing wages shall be paid as part of a project-specific agreement which
53 also takes into account terms and conditions contained in the West Virginia - Ohio Valley market
54 retention and recovery agreement or a comparable agreement.

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

57 (14) Acquire in the name of the state, by purchase or otherwise, on such terms and in
58 such manner as it deems proper, or by the exercise of the right of eminent domain in the manner
59 provided in chapter 54 of this code, such real property or parts thereof or rights therein, rights-of-
60 way, property, rights, easements and interests it ~~deems~~ considers necessary for carrying out the
61 provisions of this article and compensation shall be paid for public or private lands so taken; and
62 the authority may sell any of the real property or parts thereof or rights therein, rights-of-way,
63 property, rights, easements and interests acquired hereunder in such manner and upon such
64 terms and conditions as the authority ~~deems~~ considers proper: *Provided*, That if the authority
65 determines that land or an interest therein acquired by the authority through the exercise of the
66 power of eminent domain for the purpose of this article is no longer necessary or useful for such
67 purposes, and if the authority desires to sell ~~such~~ the land or interest therein, the authority shall
68 first offer to sell ~~such~~ the land or interest to the owner or owners from whom it was acquired, at a
69 price equal to its fair market value: *Provided, however*, That if the prior owner or owners shall
70 decline to reacquire the land or interest therein, the authority ~~shall be authorized to~~ may dispose

71 of ~~such~~ the property by direct sale, auction or competitive bidding. In no case ~~shall~~ may ~~such~~ the
72 land or an interest therein acquired under this subdivision be sold for less than its fair market
73 value. This article does not authorize the authority to take or disturb property or facilities belonging
74 to any public utility or to a common carrier, which property or facilities are required for the proper
75 and convenient operation of such public utility or common carrier, except for the acquisition of
76 easements or rights-of-way which will not unreasonably interfere with the operation of the property
77 or facilities of such public utility or common carrier, and ~~in the event of the~~ there is a taking or
78 disturbance of property or facilities of public utility or common carrier, provision shall be made for
79 the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of
80 the authority.

81 The term real property as used in this article is defined to include lands, structures,
82 franchises and interests in land, including lands under water and riparian rights, and any and all
83 other things and rights usually included within the said term, and includes also any and all interests
84 in such property less than full title, such as easements, rights-of-way, uses, leases, licenses and
85 all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including
86 terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all
87 claims for damages for such real estate.

88 For the purposes of this section, fair market value shall be determined by an appraisal
89 made by an independent person or firm chosen by the authority. The appraisal shall be performed
90 using the principles contained in the Uniform Appraisal Standards for Federal Land Acquisitions
91 published under the auspices of the Interagency Land Acquisition Conference, United States
92 Government Printing Office, 1972.

93 (15) Make and enter into all contracts and agreements and execute all instruments
94 necessary or incidental to the performance of its duties and the execution of its powers: *Provided,*
95 That if any electric power project or natural gas transmission project is to be constructed by a
96 person other than a governmental agency, and with whom the authority has contracted to lease,

97 sell or finance such project upon its completion, then the authority ~~shall~~may not be required to
98 comply with the provisions of §5-22-1 *et seq.* of this code requiring the solicitation of competitive
99 bids for the construction of such a project.

100 (16) Employ managers, superintendents and other employees, and retain or contract with
101 consulting engineers, financial consultants, accountants, architects, attorneys and such other
102 consultants and independent contractors as are necessary in its judgment to carry out the
103 provisions of this article, and fix the compensation or fees thereof. All expenses thereof shall be
104 payable solely from the proceeds of bonds issued by the economic development authority, from
105 the proceeds of bonds issued by or loan payments, lease payments or other payments received
106 by the authority, from revenues and from funds appropriated for ~~such~~ that purpose by the
107 Legislature.

108 (17) Receive and accept from any federal agency, or any other source, grants for or in aid
109 of the construction of any project or for research and development with respect to electric power
110 projects, natural gas transmission projects or other energy projects, and receive and accept aid
111 or contribution from any source of money, property, labor or other things of value to be held, used
112 and applied only for the purpose for which such grants and contributions are made.

113 (18) Purchase property coverage and liability insurance for any electric power project or
114 natural gas transmission project or other energy project and for the principal office and sub offices
115 of the authority, insurance protecting the authority and its officers and employees against liability,
116 if any, for damage to property or injury to or death of persons arising from its operations and any
117 other insurance which may be provided for under a resolution authorizing the issuance of bonds
118 or in any trust agreement securing the same.

119 (19) Charge, alter and collect transportation fees and other charges for the use or services
120 of any natural gas transmission project as provided in this article.

121 (20) Charge and collect fees or other charges from any energy project undertaken as a
122 result of this article.

123 (21) When the electric power project is owned and operated by the authority, charge
124 reasonable fees in connection with the making and providing of electric power and the sale thereof
125 to corporations, states, municipalities or other entities in the furtherance of the purposes of this
126 article.

127 (22) Purchase and sell electricity or other energy produced by an electric power project in
128 and out of the State of West Virginia.

129 (23) Enter into wheeling contracts for the transmission of electric power over the
130 authority's or another party's lines.

131 (24) Make and enter into contracts for the construction of a project facility and joint
132 ownership with another utility and the provisions of this article shall not constrain the authority
133 from participating as a joint partner therein.

134 (25) Make and enter into joint ownership agreements.

135 (26) Establish or increase reserves from moneys received or to be received by the
136 authority to secure or to pay the principal of and interest on the bonds issued by the economic
137 development authority pursuant to ~~the provisions of~~ §31-15-1 *et seq.* of this code or bonds issued
138 by the authority.

139 (27) Broker the purchase of natural gas for resale to end-users: *Provided*, That whenever
140 there are local distribution company pipelines already in place the authority shall arrange to
141 transport the gas through such pipelines at the rates approved by the Public Service Commission
142 of West Virginia.

143 (28) Engage in market research, feasibility studies, commercial research, and other
144 studies and research pertaining to electric power projects and natural gas transmission projects
145 or any other functions of the authority pursuant to this article.

146 (29) Enter upon any lands, waters and premises in the state for the purpose of making
147 surveys and examinations as it may deem necessary or convenient for the purpose of this article,
148 and such entry ~~shall~~ may not be ~~deemed~~ determined a trespass, nor ~~shall~~ may an entry for such

149 purposes be ~~deemed~~ considered an entry under any condemnation proceedings which may be
150 then pending and the authority shall make reimbursement for any actual damages resulting to
151 such lands, waters and premises as a result of ~~such~~ those activities.

152 (30) Participate in any reorganization proceeding pending pursuant to the United States
153 Code (being the act of congress establishing a uniform system of bankruptcy throughout the
154 United States, as amended) or any receivership proceeding in a state or federal court for the
155 reorganization or liquidation of a responsible buyer or responsible tenant. The authority may file
156 its claim against any such responsible buyer or responsible tenant in any of the foregoing
157 proceedings, vote upon any question pending therein, which requires the approval of the creditors
158 participating in any reorganization proceeding or receivership, exchange any evidence of such
159 indebtedness for any property, security or evidence of indebtedness offered as a part of the
160 reorganization of such responsible buyer or responsible tenant or of any entity formed to acquire
161 the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as
162 a part of any such reorganization.

163 (31) Make or enter into management contracts with a second party or parties to operate
164 any electric power project or any gas transmission project and associated facilities, or other
165 related energy project, either during construction or permanent operation.

166 (32) Do all acts necessary and proper to carry out the powers expressly granted to the
167 authority in this article.

168 (33) Nothing herein ~~shall~~ may be construed to permit the transportation of gas produced
169 outside of this state through a natural gas transmission project.

170 (34) The authority shall, after consultation with other agencies of state government having
171 environmental regulatory functions, promulgate legislative rules pursuant to §29A-3-1 *et seq.* of
172 this code, to establish standards and principles to be applied to all projects in assessing the effects
173 of projects on the environment: *Provided*, That when a proposed project requires an
174 environmental impact statement pursuant to the National Environmental Policy Act of 1969, a

175 copy of the environmental impact statement shall be filed with the authority and be made available
176 prior to any final decision or final approval of any project and prior to the conducting of any public
177 hearings regarding the project, and in any such case, no assessment pursuant to the legislative
178 rule need be made.

179 (35) To coordinate with the Public Service Commission of West Virginia, the review of
180 “Integrated Resource Plans” and other reports and information required under and pursuant to
181 §24-2-19 of this code.

**§5D-1-5C. Additional powers, duties, and responsibilities of the Public Energy Authority
related to grid stability and homeland security.**

1 The Public Energy Authority has the following powers, duties, and responsibilities to
2 ensure grid stability and homeland security:

3 (a) Within 90 days of receipt of a Comprehensive Operational Plan submitted by a public
4 electric utility pursuant to this §5D-1-5D of this code, provide the public electric utility with a written
5 response as to the administrative completeness of the Comprehensive Operational Plan.

6 (b) Within 120 days of receipt of the Comprehensive Operational Plan, issue a written
7 approval or denial of the plan, including any supportive evidence of its decision.

8 (c) Annually review reports and other information submitted by public electric utilities to:

9 (1) Ascertain the general condition of each plant;

10 (2) Ascertain implementation of the Comprehensive Operational Plan;

11 (3) Consult with the plant operator to solicit any information required to verify progress
12 completed on the previously approved Comprehensive Operational Plan; and

13 (4) Verify the 30-day base fuel supply as required by §5D-1-5D of this code.

14 (d) At least annually, submit a report of its findings and overall condition of public utilities
15 operating within the state to the West Virginia Division of Homeland Security and Emergency
16 Management, the Public Service Commission of West Virginia, and the Legislative Joint
17 Committee on Government and Finance.

§5D-1-5D. Requirements of public utilities and Comprehensive Operation Plan.

1 (a) Requirements of public utilities.

2 (1) All coal-fired utilities shall undertake a comprehensive operational analysis of each
3 coal-fired unit within its plan or system of generators to ascertain feasible and technological
4 upgrades to improve performance and extend efficient plant life cycle.

5 (2) The utilities shall submit the findings of the comprehensive operational analysis to the
6 Public Service Commission of West Virginia and to the West Virginia Public Energy Authority,
7 pursuant to §5D-1-1 et seq. of this code, along with the Comprehensive Operation Plan pursuant
8 to subsection (b) of this section, with the first filing on January 1, 2022 and every three years
9 thereafter;

10 (3) For fuel and grid resiliency and homeland security, on or before January 1, 2022, all
11 utilities generating electric power for industrial or residential consumption within the state shall
12 establish and maintain a minimum of a 30-day supply of the base fuel used to generate electricity.

13 (b) Comprehensive Operational Plan; Minimum Requirements.

14 (1) At a minimum, the Comprehensive Operational Plan shall contain the following:

15 (A) The plant fuel supply for the generation of electricity;

16 (B) The total distribution of electricity for each plant;

17 (C) All necessary plant upgrades to be proposed, started or completed over the ensuing
18 three-year cycle along with all pertinent contractors including a copy of the scope of work and
19 beginning and completion dates;

20 (D) Status of all upgrades completed, announced or previously incorporated into the plan
21 for the previous cycle or cycles;

22 (E) A maintenance schedule of all routine, scheduled or planned maintenance along with
23 a record of all nonplanned or nonscheduled events leading to or causing emergency or needed
24 maintenance; and,

25 (F) An up-to-date accounting of all expenditures or costs which have been recovered or

26 applied for.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-21. Required economic considerations for utility actions.

1 (a) The Legislature hereby finds that:

2 (1) Coal fired power plants owned by electric utilities in West Virginia provide electric utility
3 customers in the state with reliable and affordable energy;

4 (2) West Virginia's access to coal reserves has provided the citizens of the state with
5 access to an energy resource that is affordable and accessible to coal fired power plants in West
6 Virginia;

7 (3) Matters generally related to homeland security and national defense are of paramount
8 importance to West Virginia and its residents and coal-fired power plants provide optimal
9 protection and resiliency toward state security and uninterrupted power supplies for household,
10 industrial and military applications;

11 (b) It is the purpose of the Legislature to:

12 (1) Require the West Virginia Public Services Commission to consider all economics
13 associated with its actions regarding the state's public utility electric plants, including impacts on
14 local communities and surrounding counties, and all retail and energy jobs;

15 (2) Require state public electric utilities to provide adequate notice and obtain approval
16 before plant closure or idling.

17 (c) Before any public utility announces the retirement of an electricity generating unit, the
18 proposed shutdown of an electricity generating unit, or the proposed sale of a generating plant to
19 another operator, the public utility shall give notice to the West Virginia Office of Homeland
20 Security and Emergency Management, West Virginia Public Energy Authority, Public Service
21 Commission of West Virginia, and the Legislature's Joint Committee on Government and Finance.

22 Following such notice, the public utility shall apply to the Public Service Commission for approval
23 for any shutdown, closure, or sale of an electricity generating unit or plant. No such shutdown,
24 closure, or sale shall be approved by the commission unless the commission finds that it is
25 prudent and not contrary to the public interest. In considering the public interest, the commission
26 shall consider and balance the interests of customers, public utility, and the economy of the state.
27 As part of its consideration and balancing of interests, the commission shall consider coal industry
28 and generation plant related employment, related transportation jobs, and the expected fiscal
29 impact on the state, local government, and business community. Any open cases before the
30 commission as of the effective date of this section that involves an electricity generating plant
31 closure shall be reviewed by the commission subject to this section. Nothing in this subsection
32 applies where an electricity generation unit or plant requires emergency shut down due to
33 imminent danger or public safety.

34 (e) Nothing in this section shall restrict or impede the commission's ability to act on future
35 rate cases or other matters coming before the commission that ultimately affect consumer
36 household electrical rate.

NOTE: The purpose of this bill is to encourage continued operation of coal-fired electric plants, and maintain long-term state prosperity. The bill requires the Public Service Commission of West Virginia to consider all economics related to and involved with decisions involving public utility energy plants; and requires advance notification and approval before coal-fired plants or utilities are closed or sold.

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