

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 542

BY SENATORS PHILLIPS, CAPUTO, AND WOODRUM

[Originating in the Committee on the Judiciary;

reported on March 29, 2021]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §24-1-1c; and to amend said code by adding thereto two new sections,
3 designated §24-2-1q and §24-2-21, all relating to the Public Service Commission; making
4 legislative findings; requiring that all public electric utilities maintain a contract for a 30-day
5 aggregate fuel supply for the remainder of the life of existing coal-fired plants; and
6 requiring that public electric utilities provide advance notice of retirement, shutdown, or
7 sale of electricity-generating units.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§24-1-1c. Additional Legislative findings related to the coal industry.

1 The Legislature finds that:

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

3 (2) Eighteen coal-fired electric units within West Virginia's borders have been forced to
4 close;

5 (3) Markets for West Virginia coal have been severely diminished due to the closure of
6 regional coal plants to the point that West Virginia coal shipments have been reduced from 162
7 coal plants a decade ago to only 43 plants today;

8 (4) West Virginia coal mines are forced to close, resulting in West Virginia coal miners
9 being out of work, compromising homeland security and defense measures, and threatening grid
10 stability and resiliency;

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

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

17 (7) In addition to working toward sustaining coal employment levels and coal-based,
18 electric generation, the State of West Virginia should take immediate steps to provide education,
19 training, and retraining opportunities for displaced coal miners and their families;

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

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

25 (10) West Virginia's coal fleet, comprised of nine individual plants and 25 units, is fueled
26 on average by a total of 25 million tons annually; accounts for over \$2 billion of economic activity;
27 and sustains approximately 3,500 mining jobs, 2,000 plant worker jobs, thousands of downstream
28 and indirect local and surrounding county jobs, and hundreds of millions of dollars of payroll and
29 tax dollars;

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

33 (12) Public electric utilities in West Virginia should be encouraged to operate their coal-
34 fired plants at maximum reasonable output and for the duration of the life of the plants.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1q. Base fuel supply requirements for electric grid resiliency.

1 Any coal-fired power plant owned by a public electric utility as of the effective date of this
2 section shall, in order to ensure grid resiliency and homeland security, maintain a minimum 30-
3 day aggregate coal supply under contract for the remainder of the life of those plants.

§24-2-21. Required notice for power plant closure or sale.

1 (a) The Legislature hereby finds that:

2 (1) Coal-fired power plants owned by public electric utilities in West Virginia provide
3 electric utility 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; and

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 Service Commission to consider all economics
13 associated with its actions regarding the in-state plants operated by a public electric utility,
14 including impacts on local communities and surrounding counties, and all impacts on
15 employment; and

16 (2) Require public electric utilities to provide adequate notice before plant closure or
17 permanently idling.

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

23 (d) Nothing in this section shall restrict or impede the commission's ability to act on future
24 rate cases or other matters coming before the commission that ultimately affect electrical rates.