

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3036

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 2023; in effect ninety days from passage.]

1 AN ACT to amend and reenact §5B-2L-14 and §5B-2L-16 of the Code of West Virginia, 1931, as
2 amended, all relating to the BUILD WV Act generally; removing the limit on the number of
3 certified BUILD WV districts that may be certified in this state; and increasing the limit on
4 aggregate sum of approved costs for all BUILD WV projects for any fiscal year.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2L. BUILD WV ACT.

§5B-2L-14. Designation of a certified district.

1 (a) A certified BUILD WV district may be designated upon the agreement, in writing, of the
2 following officials: the Secretary of the Department of Economic Development, the Secretary of
3 the Department of Tourism, and the Secretary of the Department of Commerce.

4 (b) A certified district shall be designated by the identification of a municipality, attraction,
5 landmark, or other point of interest. The certified district may extend, as determined by the
6 designation, up to 20 square miles from that municipality, attraction, landmark, or other point of
7 interest.

8 (c) The following criteria shall be considered when determining whether to designate a
9 certified district:

10 (1) The housing and employment needs within the certified district;

11 (2) Whether the certified district will have a significant and positive economic impact on
12 the state;

13 (3) Whether there is substantial and credible evidence that designating the certified district
14 will result in one or more certified projects likely to be started and completed in a timely fashion;

15 (4) Whether the certified district will, directly or indirectly, improve the opportunities in the
16 area where the project will be located for the successful establishment or expansion of other
17 commercial businesses;

18 (5) Whether the certified district will, directly or indirectly, assist in the creation of additional
19 employment opportunities in the area or assist in the filling of currently available jobs;

- 20 (6) Whether the certified district helps to diversify the local economy;
- 21 (7) Whether the certified district is consistent with the goals of this article; and
- 22 (8) Any other relevant and reasonable criteria determined by the designating officials.

23 (d) The number of districts within the state shall be determined within the discretion of the
24 Secretary of the Department of Economic Development, the Secretary of the Department of
25 Tourism, and the Secretary of the Department of Commerce by their agreement, subject to the
26 \$150 million limitation on aggregate sum of approved costs for all projects for any fiscal year as
27 set forth in §5B-2L-16(c) of this code.

28 (e) A certified district may be decertified at any time upon agreement, in writing, of the
29 designated officials provided for in subsection (a) of this section. In no case may any BUILD WV
30 district be certified for any time period longer than 10 calendar years, unless redesignated in the
31 same manner as provided for designation.

32 (f) In no case may a proposed BUILD WV project be certified in any geographic area that
33 is not a certified BUILD WV district.

34 (g) The designation made pursuant to this section as to the designation of a certified
35 district, refusal to designate a certified district, decertification, or revocation of certification of a
36 BUILD WV district is final.

§5B-2L-16. Project application; evaluation standards; approval of projects.

1 (a) Each eligible company or group of multiple party project participants that seeks
2 certification of a proposed project as a certified BUILD WV project must file a written application
3 for approval and certification of the project with the Department of Economic Development.

4 (b) With respect to each eligible company or group of multiple party project participants
5 making an application to the Department of Economic Development seeking certification of a
6 proposed project as a certified BUILD WV project the Department of Economic Development shall
7 make inquiries and request documentation, including a completed application, from the applicant
8 that shall include the following:

9 (1) A description and location of the proposed project;

10 (2) Capital and other anticipated expenditures for the project and the sources of funding
11 therefor;

12 (3) The anticipated employment, revenues and expenses generated by the project; and

13 (4) Anything else determined necessary by the Department of Economic Development.

14 (c) The aggregate sum of approved costs for all projects for any fiscal year shall not
15 exceed \$150 million. Any project application submitted for certification in the fiscal year after the
16 sum of \$150 million has been reached shall not be approved or certified. Notwithstanding any
17 other provision of this code, for any fiscal year, the Secretary of the Department of Economic
18 Development may not approve any single proposed project as a certified BUILD WV project for
19 the fiscal year unless the proposed project has an aggregate sum of approved costs that is at
20 least \$3 million or the proposed project includes at least six residential units or houses.

21 (d) The Secretary of the Department of Economic Development, within 60 days following
22 receipt of an application or receipt of any additional information requested by the Department of
23 Economic Development respecting the application, whichever is later, shall act to grant or not to
24 grant certification of the project, based on the following criteria:

25 (1) The project will have approved costs of at least \$3 million or includes at least six
26 residential units or houses;

27 (2) The project will have a significant and positive economic impact on the state;

28 (3) The quality of the proposed project and how it addresses economic problems in the
29 area in which the project will be located;

30 (4) Whether there is substantial and credible evidence that the project is likely to be started
31 and completed in a timely fashion;

32 (5) Whether the project will, directly or indirectly, improve the opportunities in the area
33 where the project will be located for the successful establishment or expansion of other
34 commercial businesses;

35 (6) Whether the project will, directly or indirectly, assist in the creation of additional
36 employment opportunities in the area where the project will be located;

37 (7) Whether the project helps to diversify the local economy;

38 (8) Whether the project is consistent with the goals of this article;

39 (9) Whether the project is economically and fiscally sound using recognized business
40 standards of finance and accounting;

41 (10) Whether the proposed project demonstrates that the project will meet the immediate
42 future needs of the area; and

43 (11) The ability of the eligible company or group of multiple party project participants to
44 carry out the project.

45 (e) *Exclusions.*

46 (1) In no case shall any property or space that is used, in whole or in part, as a residential
47 timeshare, commercial timeshare, or as part of any similar arrangement, constitute certified
48 project property, or any part thereof.

49 (2) In no case shall any property or space that is used in whole or in part as an industrial
50 or manufacturing operation, constitute certified project property, or any part thereof.

51 (3) In no case shall any property or space that is used in whole or in part as a warehouse,
52 distribution center, telephone call center, or telemarketing operation, constitute certified project
53 property, or any part thereof.

54 (4) In no case shall any property or space that is used, in whole or in part, as an airport
55 constitute certified project property, or any part thereof.

56 (5) In no case shall any property or space that is used primarily for business activity,
57 business, or other operation or activity excluded from certification by the Department of Economic
58 Development by rule or administrative notice, constitute certified project property, or any part
59 thereof.

60 (f) The Department of Economic Development may establish additional criteria for
61 consideration when evaluating and approving applications for certified BUILD WV housing
62 projects.

63 (g) The decision by the Secretary of the Department of Economic Development as to
64 certification of a proposed project, refusal to certify a proposed project, decertification, or
65 revocation of certification of a project is final.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2023.

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Governor