

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3130

By Delegates Capito, Gearheart, Smith, Ellington,

Steele, Cooper, Toney and Riley

[Introduced January 30, 2023; Referred to the

Committee on Energy and Manufacturing the

Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §5B-2N-1, §5B-2N-2, §5B-2N-3, §5B-2N-4, §5B-2N-5, and §5B-2N-6, all
3 relating to creating the West Virginia Coalfields Energy Research and Economic
4 Development Authority; establishing a declaration of purpose; establishing the exercise of
5 powers shall benefit the citizens of the state and the Authority will perform essential
6 government functions; exempting the Authority from taxation; providing for certain
7 definitions; providing for the Authority's composition, terms of appointment, compensation
8 of members, compensation of expenses and costs, and removal of members; providing for
9 the Authority's powers and duties; mandating reporting; and providing confidentiality for
10 certain information.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985

ARTICLE 2N. WEST VIRGINIA COALFIELDS ENERGY RESEARCH AND ECONOMIC DEVELOPMENT AUTHORITY.

§5B-2N-1. Creation of the West Virginia Coalfields Energy Research and Economic Development Authority; declaration of purpose, exemption from taxation.

1 (a) The West Virginia Coalfields Energy Research and Economic Development Authority is
2 hereby established as a political subdivision of the state and is hereby created as a public
3 corporation to be utilized as a joint development entity of the "West Virginia coalfields" as defined
4 in this article. The purposes of the Authority are to promote opportunities for energy development,
5 energy storage, and manufacturing related thereto in the West Virginia coalfields, create jobs and
6 sustain economic activity in West Virginia, position the West Virginia coalfields as a leader in
7 energy workforce and energy technology research and development, and develop industries
8 engaged in supply chain siting and construction in the energy sector.

9 (b) The exercise of the powers granted by this article shall be in all respects for the benefit
10 of the citizens of the State of West Virginia and for the promotion of their welfare, health, safety,
11 and prosperity.

12 (c) The Authority will perform essential governmental functions in the exercise of the
13 powers conferred upon it by this article, and the property of the Authority and its income and
14 operations shall be exempt from taxation or assessments upon any property acquired or used by
15 the Authority under the provisions of this article.

§5B-2N-2. Definitions.

1 Unless the context clearly requires a different meaning, the terms used in this section have
2 the following meanings:

3 (1) "Authority" means the West Virginia Coalfields Energy Research and Development
4 Authority established pursuant to this article.

5 (2) "West Virginia coalfields" means any county in the state of West Virginia that has:

6 (A) Historically had coal mining within its boundaries;

7 (B) Economically benefitted, or presently benefits, from the coal mining industry within its
8 boundaries;

9 (C) Historically had economic activity ancillary, or related, to the coal mining industry within
10 its boundaries; or

11 (D) Otherwise been, or will be, significantly affected by the coal mining industry.

§5B-2N-3. Membership; terms; vacancies; expenses.

1 (a) The Authority shall have a total membership of five members appointed as follows: four
2 members to be appointed by the Governor, and one member to be the Secretary of the
3 Department of Economic Development, ex officio. All five members of the Authority shall be
4 residents of West Virginia and all five members shall have voting privileges.

5 (b) The Secretary of the Department of Economic Development shall serve as the chair of
6 the Authority and not be subject to any term limits.

7 (c) Except as otherwise provided in this article, member appointments shall be for terms of
8 four years each. No member shall be eligible to serve more than two successive four-year terms.
9 After expiration of an initial term of three years or less, two additional four-year terms may be
10 served by such member if appointed thereto. Appointments to fill vacancies, other than by
11 expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall
12 be made in the same manner as the original appointment. The remainder of any term to which a
13 member is appointed to fill a vacancy shall not constitute a term in determining the member's
14 eligibility for reappointment.

15 (d) The chair shall appoint from the Authority's membership a vice-chair, who shall serve in
16 such capacity at the pleasure of the Authority. The chair, or in his or her absence the vice-chair,
17 shall preside at each meeting of the Authority. The meetings of the Authority shall be held on the
18 call of the chair or whenever a majority of the members so request. A majority of members of the
19 Authority serving at any one time shall constitute a quorum for the transaction of business.

20 (e) Members shall serve without compensation. All members may be reimbursed for all
21 reasonable and necessary expenses actually incurred in the performance of their duties. Such
22 expenses shall be paid from funds appropriated to the Authority by the Legislature. All costs and
23 expenses incidental to the administration of the Authority shall be paid in accordance with
24 guidelines issued by the Authority from funds available to the Authority.

25 (f) All expenses and costs, made or incurred in carrying out and administering the
26 provisions of this article, shall be payable from funds appropriated by the Legislature and as
27 otherwise provided for in this article.

28 (g) Members of the Authority may be removed from office for misfeasance, malfeasance,
29 maladministration, nonfeasance, neglect of duty, misconduct, or violation of law.

§5B-2N-4. Powers and duties of the Authority.

1 (a) In addition to the other powers and duties established under this article, the Authority
2 has the power and duty to:

3 (1) Administer all duties and powers of this article, including paying and reimbursing all
4 reasonable and necessary costs and expenses, applying for grants, awarding grants, entering into
5 secured loan agreements, investing funds, and disbursing and transferring any moneys necessary
6 to carry out the provisions of this article from funds appropriated by the Legislature and as
7 otherwise provided for in this article;

8 (2) Make bylaws for the administration, management, and regulation of its affairs;

9 (3) Maintain an office within the West Virginia coalfields;

10 (4) Accept, hold, transfer, and administer moneys, grants, securities, or other property
11 transferred, appropriated, given, or bequeathed to the Authority, absolutely or in trust, from any
12 source, public or private, for the purposes for which the Authority is established;

13 (5) Make and execute contracts, other instruments, and agreements necessary or
14 convenient for the exercise of its powers and functions;

15 (6) Employ, in its discretion, consultants, attorneys, architects, engineers, accountants,
16 financial experts, investment bankers, superintendents, managers, other persons, employees,
17 and agents necessary and fix their compensation to be payable from funds made available to the
18 Authority;

19 (7) Manage moneys accrued, any earnings thereon, and any yield from investments by the
20 Board of Treasury Investments or West Virginia Investment Management Board for the exclusive
21 purpose of fulfilling the powers, authorities, and duties set forth in this article;

22 (8) Receive and accept, but not purchase, from any federal agency, private agency,
23 foundation, corporation, commission, association, or person, grants, donations of money, or real
24 or personal property for the benefit of the Authority, and receive and accept from the State of West
25 Virginia, another state, from any municipality, county, or other political subdivision thereof, or from
26 any other source, aid or contributions of either money, property, or other things of value, to be held,
27 used, and applied for the purposes for which such grants and contributions may be made;

28 (9) Enter into agreements, including the ability to make co-applications, with any
29 department, agency, or instrumentality of the United States, another state or territory of the United
30 States, or of the state and with lenders and enter into loans with contracting parties for the purpose
31 of planning, regulating, and providing for the financing or assisting in the financing of any project;

32 (10) Do any lawful act necessary or appropriate to carry out the powers granted or
33 reasonably implied in this article, including without limitation, the authority to make co-applications
34 with other states and territories of the United States for the purpose of obtaining grants or other
35 financial assistance to assist in the financing of any project authorized in this article;

36 (11) Support, promote, develop, and leverage the strength of the state's energy workforce
37 and energy technology research and development of public and private institutions of higher
38 education;

39 (12) Support, promote, and develop energy projects, energy storage, and manufacturing
40 related thereto in the West Virginia coalfields;

41 (13) Promote workforce development;

42 (14) Assist technology research and development; and

43 (15) Identify and work with industries, other agencies, and nonprofit partners in advancing
44 efforts related to energy development, energy storage, and manufacturing related thereto, in West
45 Virginia.

46 (b) The Authority may consult with research institutions, businesses, nonprofit
47 organizations, and stakeholders as appropriate.

48 (c) The Authority shall not take ownership, in any form, in any commercial energy facility or
49 manufacturing related thereto, and shall not, in any form, become a market participant in any
50 commercial energy facility or manufacturing related thereto.

51 (d) All energy projects supported, promoted, and developed by the Authority under this
52 article are subject to regulation by the Public Service Commission, pursuant §24-1-1 et seq. of this
53 code, _____ as _____ applicable.

§5B-2N-5. Biennial report.

1 On or before October 15, beginning in 2025 and each odd year thereafter, the Authority
2 shall submit a report of its activities and recommendations to the Governor and the Joint
3 Committee on Government and Finance.

§5B-2N-6. Confidentiality of information.

1 (a) Except as otherwise provided in this article, the West Virginia Coalfields Energy
2 Research and Economic Development Authority is a public body for purposes of the West Virginia
3 Freedom of Information Act, as provided in §29B-1-1 et seq. of this code.

4 (b) The Authority shall hold in confidence the personal and financial information supplied to
5 it or maintained by it concerning the siting and development of energy projects and manufacturing
6 related thereto.

7 (c) Nothing in this section shall prohibit the Authority, in its discretion, from releasing any
8 information that has been transformed into a statistical or aggregate form that does not allow the
9 identification of the person or entity, who supplied particular information.

NOTE: The purpose of this bill is to create the West Virginia Coalfields Energy Research and Economic Development Authority; establishing purpose; setting membership of authority; creating powers and duties of authority; exempting authority from taxation; defining terms; mandating reporting; and providing confidentiality for certain information.

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