

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Originating

Senate Bill 735

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[Originating in the Committee on Government
Organization; reported on February 24, 2023]

1 A BILL to amend and reenact §5B-1A-3 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §5B-2-15 of said code, to amend and reenact §5B-2A-3 and §5-2A-4
3 of said code; to amend and reenact §5B-8-1 of said code; to amend and reenact §11-13X-
4 9 of said code; and to amend and reenact §31G-1-5 and §31G-1-14 of said code, all
5 relating to clarifying the department responsible for the administration of certain programs.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1A. WEST VIRGINIA RAILS TO TRAILS PROGRAM.

§5B-1A-3. Definitions.

1 (1) "Abandoned railroad rights-of-way" means land on which discontinuance of rail service
2 has been authorized by the interstate commerce commission.

3 (2) "Division" means the ~~Division of Tourism and Parks~~ Division of Natural Resources.

4 (3) "Nonmotorized recreational trail use" means bicycle, hiking, cross-country skiing,
5 horseback riding, horse drawn wagon, jogging, or other similar activities.

6 (4) "Rail bank" means the holding intact of an abandoned railroad right-of-way for future
7 railroad service.

8 (5) "Rail trail" means an abandoned railroad right-of-way utilized in the interim as a public
9 nonmotorized recreational trail.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-15. Upper Kanawha Valley Resiliency and Revitalization Program.

1 (a) *Definitions.* —

2 (1) *General.* — Terms defined in this section have the meanings ascribed to them by this
3 section, unless a different meaning is clearly required by either the context in which the term is
4 used, or by specific definition in this section.

5 (2) *Terms Defined.* —

6 "Contributing partners" means those entities or their representatives described in
7 subsection (f) of this section.

8 "Prioritize" means, with regard to resources, planning, and technical assistance, that the
9 members of the revitalization council are required to waive their discretionary program guidelines
10 to allow funding requests that may fall outside of the program's guidelines but address the Upper
11 Kanawha Valley communities' goals for revitalization: *Provided*, That properly filed funding
12 applications by Upper Kanawha Valley communities shall be given preferential treatment.

13 "Program" means the Upper Kanawha Valley Resiliency and Revitalization Program
14 established in this section.

15 "Revitalization council" means those entities or their representatives described in
16 subsection (d) of this section.

17 "Technical assistance" means resources provided by the state, revitalization council,
18 contributing partners, or any other individuals or entities providing programming, funding, or other
19 support to benefit the Upper Kanawha Valley under the program.

20 "Upper Kanawha Valley" means an area historically known as the Upper Kanawha Valley
21 including municipalities and surrounding areas from the Charleston city limits to Gauley Bridge or
22 other communities in the vicinity of the West Virginia University Institute of Technology.

23 "Upper Kanawha Valley Resiliency and Revitalization Program" means the entire process
24 undertaken to further the goals of this section, including collaboration, development, and
25 implementation between the members, contributors, and technical assistance resource providers.

26 (b) *Legislative purpose, findings, and intent.* —

27 (1) The decision to relocate the historic campus of the West Virginia University Institute of
28 Technology from Montgomery, West Virginia, to Beckley, West Virginia, will have a dramatic
29 economic impact on the Upper Kanawha Valley.

30 (2) The purpose of this section is to establish the Upper Kanawha Valley Resiliency and
31 Revitalization Program. To further this purpose, this program creates a collaboration among state

32 government, higher education, and private and nonprofit sectors to streamline technical
33 assistance capacity, existing services, and other resources to facilitate community revitalization
34 in the Upper Kanawha Valley.

35 (3) It is the intent of the Legislature to identify existing state resources that can be
36 prioritized to support the Upper Kanawha Valley, generate thoughtful and responsible ideas to
37 mitigate the negative effects of the departure of the West Virginia Institute of Technology from the
38 Upper Kanawha Valley, and help chart a new course and prosperous future for the Upper
39 Kanawha Valley.

40 (c) *Upper Kanawha Valley Resiliency and Revitalization Program established; duration of*
41 *program.* —

42 (1) The Development Office shall establish the Upper Kanawha Valley Resiliency and
43 Revitalization Program in accordance with the provisions of this section. The program shall
44 inventory existing assets and resources, prioritize planning and technical assistance, and
45 determine such other assistance as might be available to revitalize communities in the Upper
46 Kanawha Valley.

47 (2) The program shall remain active until it concludes its work on June 30, 2024, and
48 delivers a final report to the Joint Committee on Government and Finance no later than October
49 1, 2024.

50 (d) *Revitalization council created.* — There is hereby created a revitalization council to
51 fulfill the purposes of this section. The revitalization council shall be coordinated by the
52 ~~Development Office in the Department of Commerce~~ Department of Economic Development and
53 be subject to oversight by the secretary of the department. The following entities shall serve as
54 members of the revitalization council:

55 (1) The Secretary of the Department of Economic Development or their designee, who
56 shall serve as chairperson of the council;

57 (2) The Secretary of the Department of Health and Human Resources or their designee;

- 58 (3) The Commissioner of the Department of Agriculture or their designee;
- 59 (4) The Executive Director of the West Virginia Housing Development Fund or their
60 designee;
- 61 (5) A representative from the Kanawha County Commission;
- 62 (6) A representative from the Fayette County Commission;
- 63 (7) The mayor, or their designee, from the municipalities of Montgomery, Smithers, Pratt,
64 and Gauley Bridge;
- 65 (8) A representative from Bridge Valley Community and Technical College; and
- 66 (9) A representative from West Virginia University.
- 67 (e) *Duties of the revitalization council.* —
- 68 (1) The council shall identify existing state resources that can be prioritized to support
69 economic development efforts in the Upper Kanawha Valley.
- 70 (2) The council shall direct existing resources in a unified effort and in conjunction with
71 contributing partners, as applicable, to support the Upper Kanawha Valley.
- 72 (3) The council shall develop a rapid response strategy to attract or develop new
73 enterprises and job-creating opportunities in the Upper Kanawha Valley.
- 74 (4) The council shall conduct or commission a comprehensive assessment of assets
75 available at the campus of the West Virginia Institute of Technology and determine how those
76 assets will be preserved and repurposed.
- 77 (5) The council shall assist communities in the Upper Kanawha Valley by developing an
78 economic plan to diversify and advance the community.
- 79 (6) Members of the council shall support both the planning and implementation for the
80 program and shall give priority wherever possible to programmatic activity and discretionary,
81 noncompetitive funding during the period the program remains in effect.
- 82 (7) Members of the council shall work together to leverage funding or other agency
83 resources to benefit efforts to revitalize the Upper Kanawha Valley.

84 (f) *Contributing partners.* — To the extent possible, the revitalization council shall
85 incorporate the resources and expertise of additional providers of technical assistance to support
86 the program, which shall include but not be limited to:

- 87 (1) The West Virginia Small Business Development Center;
- 88 (2) The Center for Rural Health Development;
- 89 (3) The West Virginia University Brickstreet Center for Entrepreneurship;
- 90 (4) The West Virginia University Land Use and Sustainability Law Clinic;
- 91 (5) The West Virginia University Center for Big Ideas;
- 92 (6) The New River Gorge Regional Development Authority;
- 93 (7) The Appalachian Transportation Institute;
- 94 (8) The Marshall University Center for Business and Economic Research;
- 95 (9) TechConnect;
- 96 (10) The West Virginia Community Development Hub;
- 97 (11) The West Virginia University Northern Brownfields Assistance Center;
- 98 (12) West Virginia State University Extension Service; and
- 99 (13) West Virginia University Extension Service, Community, Economic and Workforce
100 Development.

101 (g) *Reporting and agency accountability.* — The revitalization council, in coordination with
102 its contributing partners, as applicable, shall report annually to the Governor and the Legislature
103 detailing the progress of the technical assistance support provided by the program, the strategic
104 plan for the Upper Kanawha Valley, and the results of these efforts. The annual report to the
105 Legislature shall be made to the Joint Committee on Government and Finance regarding the
106 previous fiscal year no later than October 1 of each year. Copies of the annual report to the
107 Legislature shall be provided to the county commissions and the mayors of the Upper Kanawha
108 Valley.

109 (h) *Economic incentives for businesses investing in the Upper Kanawha Valley.* — The
110 Department of Economic Development and the revitalization council, as applicable, shall work to
111 educate businesses investing, or interested in investing, in the Upper Kanawha Valley, about the
112 availability of, and access to, economic development assistance, including, but not limited to, the
113 economic opportunity tax credit provided in §11-13Q-19 of this code; the manufacturing
114 investment tax credit provided under §11-13S-1 *et seq.* of this code; and any other applicable tax
115 credit or development assistance.

116 (i) *Use of state property and equipment; faculty.* — The Department of Economic
117 Development or other owner of state property and equipment in the Upper Kanawha Valley is
118 authorized to provide for the low cost and economical use and sharing of state property and
119 equipment, including computers, research labs, and other scientific and necessary equipment to
120 assist any business within the Upper Kanawha Valley at a nominal or reduced-cost
121 reimbursements to the state for that use.

ARTICLE 2A. OFFICE OF COALFIELD COMMUNITY DEVELOPMENT.

§5B-2A-3. Definitions.

1 (a) For the purpose of this article:

2 (1) "Department" means the Department of Environmental Protection established in §22-
3 1-1 *et seq.* of this code;

4 (2) "Office" means the Office of Coalfield Community Development;

5 (3) "Operator" means the definition in §22-3-3 of this code;

6 (4) "Renewable and alternative energy" means energy produced or generated from natural
7 or replenishable resources other than traditional fossil fuels or nuclear resources and includes,
8 without limitation, solar energy, wind power, hydropower, geothermal energy, biomass energy,
9 biologically derived fuels, energy produced with advanced coal technologies, coalbed methane,

10 fuel produced by a coal gasification or liquefaction facility, synthetic gas, waste coal, tire-derived
11 fuel, pumped storage hydroelectric power or similar energy sources; and

12 (5) "Secretary" means the Secretary of the Department of ~~Commerce~~. Economic
13 Development.

14 (b) Unless used in a context that clearly requires a different meaning or as otherwise
15 defined herein, terms used in this article shall have the definitions set forth in this section.

§5B-2A-4. Office of Coalfield Community Development.

1 (a) The Office of Coalfield Community Development is continued within the Department of
2 ~~Commerce~~. Economic Development.

3 (b) The secretary may appoint a chief to administer the office, who serves at the will and
4 pleasure of the secretary.

**ARTICLE 8. SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS
TECHNOLOGY TRANSFER MATCHING FUNDS PROGRAM.**

§5B-8-1. Definitions.

1 When used in this article:

2 "Department" means the West Virginia Department of ~~Commerce~~. Economic
3 Development.

4 "SBIR" means the Small Business Innovation Research Program enacted under the Small
5 Business Innovation Development Act of 1982, Pub. L. 97-219, 15 U.S.C. § 638.

6 "STTR" means the Small Business Technology Transfer Program enacted under the
7 Small Business Technology Transfer Act of 1992, Pub. L. 102-564, 15 U.S.C § 638.

8 "Small business" means a corporation, partnership, limited liability company, statutory or
9 common law business trust, sole proprietorship, or individual, operating a business for profit,
10 which qualifies as a small business and otherwise meets the requirements of the SBIR or STTR
11 programs.

12 "West Virginia-based business" means a business that has its principal place of business
13 in this state.

CHAPTER 11. TAXATION

ARTICLE 13X. WEST VIRGINIA FILM INDUSTRY INVESTMENT ACT.

§11-13X-9. Legislative rules.

1 (a) The Tax Commissioner shall propose for promulgation rules pursuant to §29A-3-1 *et*
2 *seq.* of this code as may be necessary to carry out the purposes of this article.

3 (b) The Secretary of the West Virginia Department of ~~Commerce~~ Economic Development
4 may propose for promulgation rules pursuant to §29A-3-1 *et seq.* of this code as may be
5 necessary to carry out the purposes of this article.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.

§31G-1-5. Creation of the Broadband Enhancement Fund.

1 All moneys collected by the council, which may, in addition to appropriations, include gifts,
2 bequests or donations, shall be deposited in a special revenue account in the State Treasury
3 known as the Broadband Enhancement Fund. The fund shall be administered by and under the
4 control of the Secretary of the Department of ~~Commerce~~ Economic Development. Expenditures
5 from the fund shall be for the purposes set forth in this article and are not authorized from
6 collections but are to be made only in accordance with appropriation by the Legislature and in
7 accordance with the provisions of §11B-2-1 *et seq.* of this code.

§31G-1-14. Legislative rule-making authority.

1 In order to implement and carry out the intent of this article, the Secretary of the
2 Department of ~~Commerce~~ Economic Development, at the direction and recommendation of the

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- 3 council, may propose rules for legislative approval, pursuant to the provisions of §29A-3-1 *et seq.*
- 4 of this code.