

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 610

BY SENATORS TARR AND BARRETT

[Introduced January 31, 2024; referred
to the Committee on Government Organization]

1 A BILL to amend and reenact §22C-1-6 of the Code of West Virginia, 1931, as amended, relating
2 to clarifying the authority of the Water Development Authority to appoint employees,
3 officers, managers, attorneys, independent contractors, and consultants as are
4 necessary; fixing their compensation; and prescribing their duties in certain circumstances
5 outside the classified civil service system.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

§22C-1-6. Powers, duties, and responsibilities of authority generally.

1 The Water Development Authority has and may exercise all powers necessary or
2 appropriate to carry out and effectuate its corporate purpose. The authority has the power and
3 capacity to:

4 (1) Adopt and, from time-to-time, amend and repeal bylaws necessary and proper for the
5 regulation of its affairs and the conduct of its business and rules to implement and make effective
6 its powers and duties, such rules to be promulgated in accordance with the provisions of chapter
7 29A of this code.

8 (2) Adopt an official seal.

9 (3) Maintain a principal office and, if necessary, regional suboffices at locations properly
10 designated or provided.

11 (4) Sue and be sued in its own name and plead and be impleaded in its own name and
12 particularly to enforce the obligations and covenants made under §22C-1-9, §22C-1-10, and
13 §22C-1-16 of this code. Any actions against the authority shall be brought in the circuit court of
14 Kanawha County in which the principal office of the authority shall be located.

15 (5) Make loans and grants to governmental agencies for the acquisition or construction of
16 water development projects by any such governmental agency and, in accordance with the
17 provisions of chapter 29A of this code, adopt rules and procedures for making such loans and
18 grants.

19 (6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair,
20 operate, lease or rent to, or contract for operation by a governmental agency or person, water
21 development projects and, in accordance with the provisions of chapter 29A of this code, adopt
22 rules for the use of such projects.

23 (7) Make available the use or services of any water development project to one or more
24 persons, one or more governmental agencies, or any combination thereof.

25 (8) Issue water development revenue bonds and notes and water development revenue
26 refunding bonds of the state, payable solely from revenues as provided in §22C-1-9 of this code
27 unless the bonds are refunded by refunding bonds, for the purpose of paying all or any part of the
28 cost of, or financing by loans to governmental agencies, one or more water development projects
29 or parts thereof.

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

32 (10) Acquire in the name of the state, by purchase or otherwise, on such terms and in
33 such manner as it deems proper, or by the exercise of the right of eminent domain in the manner
34 provided in chapter 54 of this code, such public or private lands, or parts thereof or rights therein,
35 rights-of-way, property, rights, easements, and interests it deems necessary for carrying out the
36 provisions of this article, but excluding the acquisition by the exercise of the right of eminent
37 domain of any public water facilities, stormwater systems, or wastewater facilities, operated under
38 permits issued pursuant to the provisions of §22-11-1 *et seq.* of this code and owned by any
39 person or governmental agency, and compensation shall be paid for public or private lands so
40 taken.

41 (11) Make and enter into all contracts and agreements and execute all instruments
42 necessary or incidental to the performance of its duties and the execution of its powers. When
43 the cost under any such contract or agreement, other than compensation for personal services,
44 involves an expenditure of more than \$25,000, the authority shall make a written contract with the

45 lowest responsible bidder after public notice published as a Class II legal advertisement in
46 compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area for such
47 publication to be the county wherein the work is to be performed or which is affected by the
48 contract, which notice shall state the general character of the work and the general character of
49 the materials to be furnished, the place where plans and specifications therefor may be examined,
50 and the time and place of receiving bids, but a contract or lease for the operation of a water
51 development project constructed and owned by the authority or an agreement for cooperation in
52 the acquisition or construction of a water development project pursuant to §22C-1-16 of this code
53 is not subject to the foregoing requirements and the authority may enter into such contract or
54 lease or such agreement pursuant to negotiation and upon such terms and conditions and for
55 such period as it finds to be reasonable and proper under the circumstances and in the best
56 interests of proper operation or of efficient acquisition or construction of such project. The
57 authority may reject any and all bids. A bond with good and sufficient surety, approved by the
58 authority, is required of all contractors in an amount equal to at least 50 percent of the contract
59 price, conditioned upon the faithful performance of the contract.

60 (12) Appoint such employees, officers, managers, attorneys, independent contractors,
61 and consultants as are necessary to carry out the provisions of this article and to fix their
62 compensation and prescribe their duties: *Provided, That,* beginning on the effective date of the
63 amendments to this section enacted during the regular session of the Legislature, 2024, all
64 employees of the authority are exempt from the classified civil service system: *Provided, however,*
65 That employees of the authority who are currently members of the classified civil service system
66 shall retain their status as long as they remain in their current classification. Thereafter, if the
67 employee leaves his or her current classification and remains an employee of the authority, that
68 employee, at that time, becomes transferred to the classified-exempt service. ~~Employ managers,~~
69 ~~superintendents, and other employees, who are covered by the state civil service system, and~~
70 ~~retain or contract with consulting engineers, financial consultants, accounting experts, architects,~~

71 ~~attorneys, and such other consultants and independent contractors as are necessary in its~~
72 ~~judgment to carry out the provisions of this article and fix the compensation or fees thereof~~ All
73 expenses thereof are payable solely from the proceeds of water development revenue bonds or
74 notes issued by the authority, from revenues, and from funds appropriated for such purpose by
75 the Legislature.

76 (13) Receive and accept from any federal agency, subject to the approval of the Governor,
77 grants for or in aid of the construction of any water development project or for research and
78 development with respect to public water facilities, stormwater systems, or wastewater facilities
79 and receive and accept aid or contributions from any source of money, property, labor, or other
80 things of value to be held, used and applied only for the purposes for which such grants and
81 contributions are made.

82 (14) Engage in research and development with respect to public water facilities,
83 stormwater systems, or wastewater facilities.

84 (15) Purchase property coverage and liability insurance for any water development project
85 and for the principal office and suboffices of the authority, insurance protecting the authority and
86 its officers and employees against liability, if any, for damage to property or injury to or death of
87 persons arising from its operations and any other insurance the authority may agree to provide
88 under any resolution authorizing the issuance of water development revenue bonds or in any trust
89 agreement securing the same.

90 (16) Charge, alter, and collect rentals and other charges for the use or services of any
91 water development project as provided in this article and charge and collect reasonable interest,
92 fees, and charges in connection with the making and servicing of loans to governmental agencies
93 in the furtherance of the purposes of this article.

94 (17) Establish or increase reserves from moneys received or to be received by the
95 authority to secure or to pay the principal of and interest on the bonds and notes issued by the
96 authority pursuant to this article.

97 (18) Administer on behalf of the Department of Environmental Protection the Dam Safety
98 Rehabilitation Revolving Fund Loan Program pursuant to the provisions of §22-14-1 *et seq.* of
99 this code. Revenues or moneys designated by this code or otherwise appropriated for use by the
100 authority pursuant to the provisions of this article may not be used for the Dam Safety
101 Rehabilitation Revolving Fund Loan Program and moneys in the Dam Safety Rehabilitation
102 Revolving Fund shall be kept separate from all revenues and moneys of the authority.

103 (19) Do all acts necessary and proper to carry out the powers expressly granted to the
104 authority in this article.