

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 556**

4 (By Senators McCabe, Green, Edgell, Helmick, Yost, Browning,
5 Tucker, Miller, Fanning and Plymale)

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8 [Originating in the Committee on Finance;
9 reported February 28, 2011.]
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12 A BILL to amend and reenact §22C-1-6 of the Code of West Virginia,
13 1931, as amended, relating to authorizing the appointment of
14 certain individuals to carry out the business of the Water
15 Development Authority; authorizing the Water Development
16 Authority to fix the compensation of those certain employees;
17 and requiring the Water Development Authority to employ all
18 other employees pursuant to the state civil service system.

19 *Be it enacted by the Legislature of West Virginia:*

20 That §22C-1-6 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted to read as follows:

22 **ARTICLE 1. WATER DEVELOPMENT AUTHORITY.**

23 **§22C-1-6. Powers, duties and responsibilities of authority**
24 **generally.**

25 The Water Development Authority has and may exercise all
26 powers necessary or appropriate to carry out and effectuate its

1 corporate purpose. The authority has the power and capacity to:

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

7 (2) Adopt an official seal.

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

10 (4) Sue and be sued in its own name and plead and be impleaded
11 in its own name and particularly to enforce the obligations and
12 covenants made under sections nine, ten and sixteen of this
13 article. Any actions against the authority shall be brought in the
14 circuit court of Kanawha County in which the principal office of
15 the authority shall be located.

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

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

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

4 (8) Issue water development revenue bonds and notes and water
5 development revenue refunding bonds of the state, payable solely
6 from revenues as provided in section nine of this article unless
7 the bonds are refunded by refunding bonds, for the purpose of
8 paying all or any part of the cost of, or financing by loans to
9 governmental agencies, one or more water development projects or
10 parts thereof.

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

14 (10) Acquire in the name of the state, by purchase or
15 otherwise, on such terms and in such manner as it deems proper, or
16 by the exercise of the right of eminent domain in the manner
17 provided in chapter fifty-four of this code, such public or private
18 lands, or parts thereof or rights therein, rights-of-way, property,
19 rights, easements and interests it deems necessary for carrying out
20 the provisions of this article, but excluding the acquisition by
21 the exercise of the right of eminent domain of any public water
22 facilities, stormwater systems or wastewater facilities, operated
23 under permits issued pursuant to the provisions of article eleven,
24 chapter twenty-two of this code and owned by any person or
25 governmental agency, and compensation shall be paid for public or
26 private lands so taken.

1 (11) Make and enter into all contracts and agreements and
2 execute all instruments necessary or incidental to the performance
3 of its duties and the execution of its powers. When the cost under
4 any such contract or agreement, other than compensation for
5 personal services, involves an expenditure of more than \$2,000, the
6 authority shall make a written contract with the lowest responsible
7 bidder after public notice published as a Class II legal
8 advertisement in compliance with the provisions of article three,
9 chapter fifty-nine of this code, the publication area for such
10 publication to be the county wherein the work is to be performed or
11 which is affected by the contract, which notice shall state the
12 general character of the work and the general character of the
13 materials to be furnished, the place where plans and specifications
14 therefor may be examined and the time and place of receiving bids,
15 but a contract or lease for the operation of a water development
16 project constructed and owned by the authority or an agreement for
17 cooperation in the acquisition or construction of a water
18 development project pursuant to section sixteen of this article is
19 not subject to the foregoing requirements and the authority may
20 enter into such contract or lease or such agreement pursuant to
21 negotiation and upon such terms and conditions and for such period
22 as it finds to be reasonable and proper under the circumstances and
23 in the best interests of proper operation or of efficient
24 acquisition or construction of such project. The authority may
25 reject any and all bids. A bond with good and sufficient surety,
26 approved by the authority, is required of all contractors in an

1 amount equal to at least fifty percent of the contract price,
2 conditioned upon the faithful performance of the contract.

3 ~~(12) Employ managers, superintendents and other employees, who~~
4 ~~are covered by the state civil service system, and retain or~~
5 ~~contract with consulting engineers, financial consultants,~~
6 ~~accounting experts, architects, attorneys and such other~~
7 ~~consultants and independent contractors as are necessary in its~~
8 ~~judgment to carry out the provisions of this article and fix the~~
9 ~~compensation or fees thereof. All expenses thereof are payable~~
10 ~~solely from the proceeds of water development revenue bonds or~~
11 ~~notes issued by the authority, from revenues and from funds~~
12 ~~appropriated for such purpose by the Legislature~~ Appoint one Global
13 Information System Manager II, one Global Information System
14 Programmer Analyst III, two Accountants/Auditors III, one Financial
15 Reporting Specialist II, two Financial Reporting Specialists I, one
16 Chief Financial Officer, and any accountants, Global Information
17 System personnel, or attorneys as are necessary in the authority's
18 judgment to carry out the provisions of this article outside the
19 state civil service system for the transaction of its business.
20 All such employees of the authority may be removed at the
21 discretion of the authority.

22 (13) Fix the compensation and define the duties and
23 responsibilities of the appointees designated in subsection twelve
24 of this section and provide a system of organization to promote
25 efficiency. The authority may reimburse any state spending unit
26 for any special expense actually incurred in providing any service

1 or the use of any facility to the authority.

2 (14) Employ other employees not mentioned in subsection twelve
3 of this section as are necessary in the authority's judgment to
4 carry out the provisions of this article in accordance with article
5 six, chapter twenty-nine of this code.

6 ~~(13)~~ (15) Receive and accept from any federal agency, subject
7 to the approval of the Governor, grants for or in aid of the
8 construction of any water development project or for research and
9 development with respect to public water facilities, stormwater
10 systems or wastewater facilities and receive and accept aid or
11 contributions from any source of money, property, labor or other
12 things of value to be held, used and applied only for the purposes
13 for which such grants and contributions are made.

14 ~~(14)~~ (16) Engage in research and development with respect to
15 public water facilities, stormwater systems or wastewater
16 facilities.

17 ~~(15)~~ (17) Purchase property coverage and liability insurance
18 for any water development project and for the principal office and
19 suboffices of the authority, insurance protecting the authority and
20 its officers and employees against liability, if any, for damage to
21 property or injury to or death of persons arising from its
22 operations and any other insurance the authority may agree to
23 provide under any resolution authorizing the issuance of water
24 development revenue bonds or in any trust agreement securing the
25 same.

26 ~~(16)~~ (18) Charge, alter and collect rentals and other charges

1 for the use or services of any water development project as
2 provided in this article and charge and collect reasonable
3 interest, fees and charges in connection with the making and
4 servicing of loans to governmental agencies in the furtherance of
5 the purposes of this article.

6 ~~(17)~~ (19) Establish or increase reserves from moneys received
7 or to be received by the authority to secure or to pay the
8 principal of and interest on the bonds and notes issued by the
9 authority pursuant to this article.

10 ~~(18)~~ (20) Administer on behalf of the Department of
11 Environmental Protection the Dam Safety Rehabilitation Revolving
12 Fund Loan Program pursuant to the provisions of article fourteen of
13 chapter twenty-two of this code. Revenues or moneys designated by
14 this code or otherwise appropriated for use by the authority
15 pursuant to the provisions of this article may not be used for the
16 Dam Safety Rehabilitation Revolving Fund Loan Program and moneys in
17 the Dam Safety Rehabilitation Revolving Fund shall be kept separate
18 from all revenues and moneys of the authority.

19 ~~(19)~~ (21) Do all acts necessary and proper to carry out the
20 powers expressly granted to the authority in this article.

(NOTE: The purpose of this bill is to provide the Water Development Authority with authority relating to the appointment of individuals to carry out the business of the authority.)

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)