



1 legislative finding:

2       (a) That unemployment exists in many areas of the state and  
3 may well come about, from time to time, in other areas of the  
4 state;

5       (b) That in some areas of the state, unemployment is a serious  
6 problem and has been for so long a period of time that, without  
7 remedial measures, it may become so in other areas of the state;

8       (c) That economic insecurity due to unemployment is a serious  
9 menace to the health, safety, morals and general welfare of the  
10 people of the entire state;

11       (d) That widespread industry unemployment produces indigency  
12 which falls with crushing force upon all unemployed workers and  
13 ultimately upon the state in the form of welfare and unemployment  
14 compensation;

15       (e) That the absence of employment and business opportunities  
16 for youth is a serious threat to the strength and permanence of  
17 their faith in our American political and economic institutions and  
18 the philosophy of freedom on which those institutions are based;

19       (f) That lack of employment and business opportunities has  
20 resulted in thousands of workers and their families leaving the  
21 state to find such opportunities elsewhere and that this exodus has  
22 adversely affected the tax base of counties and municipalities  
23 resulting in an impairment of their financial ability to support  
24 education and other local government services;

1 (g) That security against unemployment and the spread of  
2 indigency and economic stagnation can best be provided by the  
3 promotion, attraction, stimulation, rehabilitation and  
4 revitalization of commerce, tourism, industry and manufacturing;

5 (h) That the present and future health, safety, morals, right  
6 to gainful employment and general welfare of the people of the  
7 state require as a public purpose the promotion and development of  
8 new and expanded coal and other energy production, industrial,  
9 commercial, tourist and manufacturing enterprises within this  
10 state;

11 (i) That the means and measures being authorized for the  
12 financing of projects, including the insuring of loans or other  
13 debt issued for working capital or the refinancing of existing debt  
14 of an enterprise, are, as a matter of public policy, for the public  
15 purposes of the several counties, municipalities and the state;

16 (j) That the device under which private community industrial  
17 development organizations in the state acquire or build industrial  
18 buildings or sites and equip the same with funds raised through  
19 popular subscription, loans or otherwise for lease and sale to new  
20 or expanding industries has proven effective in creating new  
21 employment and business opportunities locally, is in accord with  
22 the American tradition of community initiative and enterprise and  
23 requires and deserves encouragement and support from the state as  
24 a means toward alleviation of unemployment and economic distress;

1           (k) That community industrial development corporations in the  
2 state have invested substantial funds in successful coal  
3 production, industrial projects and are experiencing difficulty in  
4 undertaking additional projects by reason of the partial inadequacy  
5 of their own funds potentially available from local subscription  
6 sources and by reason of limitations of local financial  
7 institutions in providing additional and sufficiently sizable first  
8 deed of trust or mortgage loans or letters of credit and other  
9 forms of credit enhancement;

10          (l) That minority business ownership, especially among  
11 African-Americans in the area of Charleston, West Virginia, is  
12 proportionately less than minority business ownership nationwide  
13 and statewide, the unemployment rate for African-Americans recently  
14 has been about twice the unemployment rate for caucasians and  
15 significantly higher in some counties with a greater concentration  
16 of African-Americans and an urgent need exists to encourage  
17 African-Americans and minority business ownership and higher  
18 employment;

19          (m) That an urgent need exists to stimulate a larger flow of  
20 private investment funds from banks, investment houses, insurance  
21 companies and other financial institutions into projects;

22          (n) That by increasing the number of projects presenting  
23 attractive opportunities for private investment, a larger portion  
24 of the private capital available in this state for investment can

1 be put to use for the general economic development of the state;

2 (o) That the availability of financial assistance through the  
3 creation of an insurance fund will promote the economic development  
4 of the state; and that it is in the public interest, in order to  
5 address the needs aforesaid, that a state instrumentality be  
6 created as a public body corporate with full powers to accept  
7 grants, gifts and appropriations, to generate revenues, to borrow  
8 money and issue its bonds, notes, commercial paper, other debt  
9 instruments and security interests to the end that funds obtained  
10 thereby may be used to furnish money and credit to approved  
11 industrial development agencies or enterprises or to promote the  
12 establishment of new projects or to retain existing projects;

13 (p) That tourism is one of the mainstays of the state's  
14 economy and has a high potential for growth;

15 (q) That the success of tourism projects should not be  
16 measured so much in the number of jobs or capital created, but in  
17 the value created by patrons of such projects and their ancillary  
18 economic contributions to the state; and

19 (r) That the authority must consider the uniqueness of tourism  
20 in the state's economic picture in determining participation of  
21 tourism projects under this article.

22 **§31-15-4. Definitions.**

23 Unless the context clearly indicates otherwise, as used in  
24 this article:

1 (a) "Authority" means the West Virginia Economic Development  
2 Authority;

3 (b) "Board" means the governing body of the authority;

4 (c) "Board of investments" means the Board of Investments  
5 established by article six, chapter twelve of this code;

6 (d) "Bonds" means bonds or other debt instruments of the  
7 authority issued under this article, whether the interest thereon  
8 is taxable or tax-exempt for federal income tax purposes;

9 (e) "Business plan" means a document detailing the sales,  
10 production and distribution plans of an enterprise, together with  
11 the expenditures necessary to carry out those plans (including  
12 budget and cash flow projections) on an annual basis, and an  
13 employment plan setting forth steps to be taken by the enterprise  
14 to retain jobs or reduce unemployment in this state;

15 (f) "Costs of establishing an industrial development project"  
16 means the cost of acquiring existing facilities, cost of machinery,  
17 cost of equipment and fixtures, the cost of construction ,including  
18 with out limitation, cost of improvements, repairs, and  
19 renovations, costs of all lands, water areas, property rights and  
20 easements, financing charges, interest prior to and during  
21 construction, cost of architectural, engineering, legal and  
22 financial or other consulting services, plans, site assessments,  
23 site remediation costs, specifications and surveys, estimates of  
24 costs and any other expenses necessary or incident to determining

1 the feasibility or practicability of any project, together with  
2 such other costs and expenses as may be necessary or incidental to  
3 the financing and the construction or acquisition of the project  
4 and the placing of the same in operation;

5 (g) "County" means any county of this state;

6 (h) "Enterprise" means an entity which is or proposes to be  
7 engaged in this state in any business activity for profit. The  
8 entity may be owned, operated, controlled or under the management  
9 of a person, partnership, corporation, trust, community-based  
10 development organization or council, local commerce group, employee  
11 stock ownership plan, pension or profit-sharing plan, a group of  
12 participating employees who desire to own an entity which does not  
13 presently exist, or any similar entity or organization;

14 (i) "Federal agency" means the United States of America and  
15 any department, corporation, agency or instrumentality created,  
16 designated or established by the United States of America;

17 (j) "Financing plan" means a plan designed to meet the  
18 financing needs of an enterprise as reflected in the business plan;

19 (k) "Fund" means the Economic Development Fund provided in  
20 section twenty-three of this article;

21 (l) "Government" means state and federal government, and any  
22 political subdivision, agency or instrumentality thereof, corporate  
23 or otherwise;

24 (m) "Industrial development agency" means any incorporated

1 organization, foundation, association or agency to whose members or  
2 shareholders no profit inures, which has as its primary function  
3 the promotion, encouragement and development of industrial,  
4 commercial, manufacturing and tourist enterprises or projects in  
5 this state;

6 (n) "Insurance fund" means the insurance fund created in this  
7 article;

8 (o) "Loan" means an extension of financing by the authority to  
9 an industrial development agency or an enterprise, including, but  
10 not limited to, a loan, a lease or an installment sale;

11 (p) "Municipality" means any city or town in this state;

12 (q) "Notes" means any notes, including commercial paper, of  
13 the authority issued under this article whether the interest  
14 thereon is taxable or tax-exempt for federal income tax purposes;

15 (r) "Project" means a commercial or industrial undertaking and  
16 all of the assets reasonably and necessarily required therefor, all  
17 as determined by the authority, which determination shall be  
18 conclusive, and shall include, without limiting the generality of  
19 the foregoing, industrial projects and commercial projects as  
20 presently defined in section three, article two-c, chapter  
21 thirteen;

22 (s) "Revenues" means all fees, premiums, charges, moneys,  
23 profits, payment or principal of or interest on, loans and other  
24 investments, gifts, grants, appropriations, contributions and all

1 other income derived or to be derived by the authority under this  
2 article; and

3 (t) "Security interest" means an interest in the loan  
4 portfolio of the authority which interest is secured by an  
5 underlying loan or loans and is evidenced by a note issued by the  
6 authority; and

7 (u) "Tourism project" means a commercial undertaking which  
8 receives or projects to receive more than seventy-five percent of  
9 its revenue from nonresident sources and is not a retail operation.

10 **§31-15-12b. Tourism projects; criteria for loans.**

11 Notwithstanding any other provision of this article to the  
12 contrary, in developing criteria for loans to a tourism project  
13 under this article, the authority shall consider many factors  
14 including, but not limited to, whether any specific number of jobs  
15 are or will be created by the project, whether any existing jobs or  
16 jobs to be created by the project are to meet any specific  
17 compensation levels, or whether any existing jobs or jobs to be  
18 created by the project provide any specific employee benefits:  
19 *Provided*, That no tourism project may be denied a loan for the sole  
20 reason that a specific number of jobs will not be created by the  
21 project or that existing jobs or jobs to be created by the project  
22 will not meet specific compensation levels or offer any specific  
23 employee benefits. Any criteria for a loan application for a  
24 tourism project under this article shall include a requirement that

1 the applicant provide a jobs impact statement with information as  
2 required by the authority.

NOTE: The purpose of this bill is to provide that the West Virginia Economic Development Authority, in developing criteria for loans to a tourism project, shall not require that any specific number of jobs are or will be created by the project, nor that any existing jobs or jobs to be created are to meet any specific compensation levels, nor that any existing jobs or jobs to be created provide any specific employee benefits.

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

§31-15-12b is new; therefore, strike-throughs and underscoring have been omitted.