

Senate Bill No. 556

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

[Introduced February 18, 2011; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §22C-1-6 of the Code of West Virginia,
1931, as amended, relating to authorizing the appointment of
certain individuals to carry out the business of the Water
Development Authority; authorizing the Water Development
Authority to fix the compensation of those certain employees;
and requiring the Water Development Authority to employ all
other employees pursuant to the state civil service system.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. WATER DEVELOPMENT AUTHORITY.

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

The Water Development Authority has and may exercise all
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

1 chapter twenty-nine-a of this code, adopt rules for the use of such
2 projects.

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

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

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

16 (10) Acquire in the name of the state, by purchase or
17 otherwise, on such terms and in such manner as it deems proper, or
18 by the exercise of the right of eminent domain in the manner
19 provided in chapter fifty-four of this code, such public or private
20 lands, or parts thereof or rights therein, rights-of-way, property,
21 rights, easements and interests it deems necessary for carrying out
22 the provisions of this article, but excluding the acquisition by
23 the exercise of the right of eminent domain of any public water
24 facilities, stormwater systems or wastewater facilities, operated

1 under permits issued pursuant to the provisions of article eleven,
2 chapter twenty-two of this code and owned by any person or
3 governmental agency, and compensation shall be paid for public or
4 private lands so taken.

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

1 negotiation and upon such terms and conditions and for such period
2 as it finds to be reasonable and proper under the circumstances and
3 in the best interests of proper operation or of efficient
4 acquisition or construction of such project. The authority may
5 reject any and all bids. A bond with good and sufficient surety,
6 approved by the authority, is required of all contractors in an
7 amount equal to at least fifty percent of the contract price,
8 conditioned upon the faithful performance of the contract.

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

1 State Civil Service System for the transaction of its business.
2 All such employees of the authority may be removed at the
3 discretion of the authority.

4 (13) Fix the compensation and define the duties and
5 responsibilities of the appointees designated in subsection twelve
6 of this section and provide a system of organization to promote
7 efficiency. The authority may reimburse any state spending unit
8 for any special expense actually incurred in providing any service
9 or the use of any facility to the authority.

10 (14) Employ other employees not mentioned in subsection (12)
11 of this section as are necessary in the authority's judgment to
12 carry out the provisions of this article in accordance with article
13 six, chapter twenty-nine of this code.

14 ~~(13)~~ (15) Receive and accept from any federal agency, subject
15 to the approval of the Governor, grants for or in aid of the
16 construction of any water development project or for research and
17 development with respect to public water facilities, stormwater
18 systems or wastewater facilities and receive and accept aid or
19 contributions from any source of money, property, labor or other
20 things of value to be held, used and applied only for the purposes
21 for which such grants and contributions are made.

22 ~~(14)~~ (16) Engage in research and development with respect to
23 public water facilities, stormwater systems or wastewater
24 facilities.

1 ~~(15)~~ (17) Purchase property coverage and liability insurance
2 for any water development project and for the principal office and
3 suboffices of the authority, insurance protecting the authority and
4 its officers and employees against liability, if any, for damage to
5 property or injury to or death of persons arising from its
6 operations and any other insurance the authority may agree to
7 provide under any resolution authorizing the issuance of water
8 development revenue bonds or in any trust agreement securing the
9 same.

10 ~~(16)~~ (18) Charge, alter and collect rentals and other charges
11 for the use or services of any water development project as
12 provided in this article and charge and collect reasonable
13 interest, fees and charges in connection with the making and
14 servicing of loans to governmental agencies in the furtherance of
15 the purposes of this article.

16 ~~(17)~~ (19) Establish or increase reserves from moneys received
17 or to be received by the authority to secure or to pay the
18 principal of and interest on the bonds and notes issued by the
19 authority pursuant to this article.

20 ~~(18)~~ (20) Administer on behalf of the Department of
21 Environmental Protection the Dam Safety Rehabilitation Revolving
22 Fund Loan Program pursuant to the provisions of article fourteen of
23 chapter twenty-two of this code. Revenues or moneys designated by
24 this code or otherwise appropriated for use by the authority

1 pursuant to the provisions of this article may not be used for the
2 Dam Safety Rehabilitation Revolving Fund Loan Program and moneys in
3 the Dam Safety Rehabilitation Revolving Fund shall be kept separate
4 from all revenues and moneys of the authority.

5 ~~(19)~~ (21) Do all acts necessary and proper to carry out the
6 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.