

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 315**

4 (By Senator Wells)

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6 [Originating in the Committee on Military;
7 reported January 22, 2014.]
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12 A BILL to amend and reenact §15-1J-3 and §15-1J-4 of the Code of
13 West Virginia, 1931, as amended, all relating to authorizing
14 the West Virginia Military Authority to administer national
15 security, homeland security and other military-related or -
16 sponsored programs; redefining "employee"; expanding with whom
17 the authority may contract to include any state, territory or
18 the District of Columbia; and authorizing the authority to
19 accept and use funds from the federal government, any state
20 and other specified entities for the purposes of national
21 security, homeland security and other military-related or -
22 sponsored programs.

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

24 That §15-1J-3 and §15-1J-4 of the Code of West Virginia, 1931,
25 as amended, be amended and reenacted, all to read as follows:

26 **ARTICLE 1J. WEST VIRGINIA MILITARY AUTHORITY ACT.**

1 **§15-1J-3. Definitions.**

2 As used in this article, unless the content clearly indicates
3 otherwise:

4 (a) "Authority" means the West Virginia Military Authority.

5 (b) "BRIM" means the West Virginia Board of Risk Management.

6 (c) "Guard" means West Virginia National Guard, including its
7 army and air components.

8 (d) "Employee" means any person who, within the at-will
9 employment relationship, is hired ~~performs duties and is paid a~~
10 ~~wage or salary which cost is, in whole or in part, reimbursed by~~
11 ~~the federal government pursuant to a contract or memorandum of~~
12 ~~understanding between the federal government and the guard to~~
13 ~~perform duties related to national security, homeland security and~~
14 ~~other military-related or -sponsored programs.~~

15 (e) "PEIA" means Public Employees Insurance Act.

16 (f) "PERS" means Public Employees Retirement System.

17 **§15-1J-4. Establishment and general powers of the authority.**

18 (a) The West Virginia Military Authority is hereby established
19 to administer national security, homeland security and other
20 military-related or -sponsored programs. ~~that provide for the~~
21 ~~reimbursement, in whole or in part, of employee wages or salaries~~
22 ~~pursuant to a contract or memorandum of understanding between the~~
23 ~~federal government and the guard. The authority to administer~~
24 ~~programs granted in this subsection shall terminate when federal~~
25 ~~funds are no longer available to provide reimbursement of salaries~~
26 ~~or wages.~~

1 (b) The authority will be administered by the Adjutant General
2 and the Adjutant General's department.

3 (c) Funds provided by the federal government and any state
4 funds authorized by appropriation of the Legislature used as a
5 required match to secure federal funding for programs administered
6 by the authority pursuant to this section shall be administered by
7 the Adjutant General subject to the provisions of article eleven,
8 chapter four of this code.

9 (d) Except as otherwise prohibited by statute, the authority,
10 as a governmental instrumentality exercising public powers of the
11 state, shall have and may exercise all powers necessary or
12 appropriate to carry out the purpose of this article, including the
13 authority to:

14 (1) Execute cooperative agreements between the guard and the
15 federal and/or state governments;

16 (2) Contract on behalf of the guard with the federal
17 government, its instrumentalities and agencies, ~~the~~ any state,
18 territory or the District of Columbia and its agencies and
19 instrumentalities, municipalities, foreign governments, public
20 bodies, private corporations, partnerships, associations and
21 individuals;

22 (3) Use funds administered by the authority pursuant to
23 subsection (c) of this section for the maintenance, construction or
24 reconstruction of capital repair and replacement items as necessary
25 and approved by the authority;

26 (4) Accept and use funds from the federal government, its

1 instrumentalities and agencies, any state, territory or the
2 District of Columbia and its agencies and instrumentalities,
3 municipalities, foreign governments, public bodies, private
4 corporations, partnerships, associations and individuals for the
5 purposes of national security, homeland security and other
6 military-related or -sponsored programs;

7 ~~(4)~~ (5) Procure insurance with state funds through BRIM
8 covering property and other assets of the authority in amounts and
9 from insurers that BRIM determines necessary;

10 ~~(5)~~ (6) Hire employees at an appropriate salary equivalent to
11 a competitive wage rate;

12 ~~(6)~~ (7) Enroll employees in PERS, PEIA and workers'
13 compensation and unemployment programs, or their equivalents:
14 *Provided*, That the authority, through the receipt of federal and/or
15 state funds, pays the required employer contributions;

16 ~~(7)~~ (8) Cooperate with economic development agencies in
17 efforts to promote the expansion of industrial, commercial and
18 manufacturing in the state;

19 ~~(8)~~ (9) Develop a human resources division that will
20 administer and manage its employees and receive state matching
21 funds as necessary to ensure maximum federal funds are secured;

22 ~~(9)~~ (10) Due to the at-will employment relationship with the
23 authority, its employees may not avail themselves of the state
24 grievance procedure as set forth in article six-a, chapter twenty-
25 nine of this code; and

26 ~~(10)~~ (11) Have the ability to secure all other bonding,

1 insurance or other liability protections necessary for its
2 employees to fulfill their duties and responsibilities.

(NOTE: The purpose of this bill is to clarify the use of funds for national security, homeland security and other military-related or sponsored programs under the West Virginia Military Authority

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