

1 **Senate Bill No. 315**

2 (By Senator Wells)

3
4 [Introduced January 10, 2014; referred to the Committee on
5 Military; and then to the Committee on Finance.]
67
8
9
10 A BILL to amend and reenact §15-1J-2, §15-1J-3 and §15-1J-4 of the
11 Code of West Virginia, 1931, as amended, all relating to the
12 funding of the West Virginia Military Authority; and allowing
13 use of funds from special revenue accounts.14 *Be it enacted by the Legislature of West Virginia:*15 That §15-1J-2, §15-1J-3 and §15-1J-4 of the Code of West
16 Virginia, 1931, as amended, be amended and reenacted, all to read
17 as follows:18 **ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.**19 **§15-1J-2. Legislative findings.**20 The Legislature finds that the West Virginia National Guard is
21 a unique entity that has a dual mission for both West Virginia and
22 the United States. In this dual capacity, the West Virginia
23 National Guard receives funds to administer programs, including the
24 hiring of employees, that the federal government, including the

1 Department of Defense, provides to the guard in support of specific
2 activities for various federal agencies for national security and
3 homeland security purposes. These programs fulfill specific agency
4 purposes and necessarily require continued funding by the federal
5 government.

6 Additionally, the guard continues to receive federal funding
7 to develop and maintain capabilities to house, refurbish, rebuild
8 and maintain military equipment and conduct other test and
9 operational activities to support national and homeland security
10 objectives. These activities require the guard to hire persons who
11 will be compensated, in whole or in part, with federal funds or
12 funds from special revenue accounts. It is further determined and
13 declared that it is necessary for the guard to develop and
14 implement a procedure for hiring and management of nonmilitary
15 employees to support its specific missions.

16 **§15-1J-3. Definitions.**

17 As used in this article: ~~unless the content clearly indicates~~
18 ~~otherwise~~

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

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

21 (c) "Guard" means West Virginia National Guard, including its
22 Army and Air components.

23 (d) "Employee" means any person who, within the at-will
24 employment relationship, is hired, performs duties and is paid a

1 wage or salary which cost is, in whole or in part, reimbursed by
2 the federal government pursuant to a contract or memorandum of
3 understanding between the federal government and the guard or by
4 other special revenue account.

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

6 (f) "PERS" means Public Employee's Retirement System.

7 **§15-1J-4. Establishment and general powers of the authority.**

8 (a) The West Virginia Military Authority is ~~hereby~~ established
9 to administer national security, homeland security and other
10 military-related programs that provide for the reimbursement, in
11 whole or in part, of employee wages or salaries pursuant to a
12 contract or memorandum of understanding between the federal
13 government and the guard or by other special revenue account. The
14 authority to administer programs granted in this subsection ~~shall~~
15 ~~terminate~~ terminates when federal funds or funds by other special
16 revenue account are no longer available to provide reimbursement of
17 salaries or wages.

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

20 (c) Funds provided by the federal government and any state
21 funds authorized by appropriation of the Legislature used as a
22 required match to secure federal funding or by funds received from
23 special revenue accounts for programs administered by the authority
24 pursuant to this section shall be administered by the Adjutant

1 General subject to the provisions of article eleven, chapter four
2 of this code.

3 (d) Except as otherwise prohibited by statute, the authority,
4 as a governmental instrumentality exercising public powers of the
5 state, ~~shall have~~ has and may exercise all powers necessary ~~or~~
6 ~~appropriate~~ to carry out the purpose of this article, including the
7 authority to:

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

10 (2) Contract on behalf of the guard with the federal
11 government, its instrumentalities and agencies, the state, its
12 agencies and instrumentalities, municipalities, foreign
13 governments, public bodies, private corporations, partnerships,
14 associations and individuals;

15 (3) Use funds administered by the authority pursuant to
16 subsection (c) of this section for the maintenance, construction or
17 reconstruction of capital repair and replacement items as necessary
18 and approved by the authority;

19 (4) Procure insurance with state funds through BRIM covering
20 property and other assets of the authority in amounts and from
21 insurers that BRIM determines necessary;

22 (5) Hire employees at an appropriate salary equivalent to a
23 competitive wage rate;

24 (6) Enroll employees in PERS, PEIA and workers' compensation

1 and unemployment programs, or their equivalents: *Provided*, That the
2 authority, through the receipt of federal and/or state funds, pays
3 the required employer contributions;

4 (7) Cooperate with economic development agencies in efforts to
5 promote the expansion of industrial, commercial and manufacturing
6 in the state;

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

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

14 (10) Have the ability to secure all other bonding, insurance
15 or other liability protections necessary for its employees to
16 fulfill their duties and responsibilities.

NOTE: The purpose of this bill is to allow the West Virginia
Military Authority to receive funds from special revenue accounts
in the performance of its programs.

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