

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4574

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[Originating in the Committee on Government
Organization; February 21, 2020.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article
2 designated §5B-2J-1, §5B-2J-2, §5B-2J-3, §5B-2J-4, §5B-2J-5, §5B-2J-6, and §5B-2J-7,
3 all relating to establishing a program to facilitate the recovery of areas of the state that
4 have been impacted by the reduction of coal production and consumption; providing
5 legislative findings; establishing a Coal and Timber Transition Office to administer the
6 program; providing for a Coal and Timber Transition Advisory Committee to study and
7 advise the office; defining terms; requiring submission of plans to the Legislature;
8 providing that certain coal operations, timber operations, and electric utilities provide
9 information to the office relating to job losses when a facility is closing; and providing for
10 expiration of the article.

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2J. TRANSITION SUPPORT FOR COAL AND TIMBER RELATED JOBS.

§5B-2J-1. Legislative findings.

1 (a) Since employing 63,000 workers in 1978, employment in West Virginia's coal industry
2 has declined. In 2018, only 12,000 workers were employed at West Virginia coal mines.

3 (b) The nation's power sector is moving away from its reliance on coal. Since 2009,
4 approximately 300 coal-fired power plants have shut down putting a lot of coal miners and coal
5 companies out of business. The coal industry powered approximately half of the nation's
6 electricity generation for decades, however by 2017 the coal industry declined to account for only
7 a quarter of all electricity generation. Predictions of the future of the coal industry are that coal-
8 based electricity generation may fall to as low as 11 percent of the nation's total generation by
9 2030 and be eliminated in future years. The closure of coal-fired power plants nationwide has and
10 will continue to have a serious impact on employment in West Virginia's coal mines and the
11 transportation and logistics supply chains that move coal from mine to market.

12 (c) One of the oldest and largest industries in West Virginia is the timber and wood
13 products industry. West Virginia is the third most forested state in the United States. West Virginia
14 is rich in this renewable natural resource, but the housing downturn hit the industry hard.
15 Additionally, industries reliant on the timber industry have been hit hard, including Mineral County,
16 where a 130-year-old paper mill closed.

17 (d) The effects of the decline of timber and coal industries are vast. Workers and their
18 communities have already experienced significant negative consequences. Closing coal mines,
19 retiring power plants, and the timber industry were principal contributors to their communities' tax
20 base and provided revenue for vital local government services. This revenue needs to be replaced
21 with new robust economies.

22 (e) Coordinated leadership within West Virginia by state government, businesses,
23 workers, and other members of the communities impacted is essential to minimize the effect of
24 the decline in the timber and coal industries.

25 (f) A strong and comprehensive policy is needed to direct financial resources in
26 communities affected by the decline of the coal and timber economy. With the proper support,
27 reliant communities can diversify and grow their local and regional economies in a manner that is
28 good for both those communities and other communities in West Virginia.

29 (g) West Virginians are resilient and will thrive despite the decline of the coal and timber
30 industry.

§5B-2J-2. Definitions.

1 As used in this article, unless the context otherwise requires:

2 “Advisory committee” means the Coal and Timber Transition Advisory Committee
3 established pursuant to section four of this article;

4 “Coal-related employment” means employment in the coal industry, including downstream
5 and upstream industries reliant on coal;

6 “Coal and Timber Transition Plan” means the plan outlined in section five of this article, in
7 draft or final form, prepared by the Advisory Committee and submitted by the Director as provided
8 in section four and section three of this article;

9 “Department” means the Department of Commerce;

10 “Director” means the director of the Coal Transition Office;

11 “Impacted community” means a county that has been determined by the Director to have
12 had or is expected to have significant loss of coal-related or timber-related employment that has
13 not exhibited signs of recovery from the loss of jobs, taxes, and population that resulted from the
14 loss of coal-related employment;

15 “Impacted worker” means a West Virginia worker laid off from coal-related or timber-
16 related employment and who has not found employment;

17 “Office” means the Coal and Timber Transition Office created in section three of this
18 article;

19 “Secretary” means the Cabinet Secretary of the Department of Commerce;

20 “Timber-related employment” means employment in the timber industry, including
21 downstream and upstream industries reliant on timber; and

22 “Workforce Transition Plan” means a plan submitted by a coal mining operation, electric
23 utility, or timber-related operation as outlined in section six of this article.

§5B-2J-3. Coal and Timber Transition Office established.

1 (a) There is hereby created within the Department of Commerce, a Coal and Timber
2 Transition Office.

3 (b) The Secretary of the Department shall appoint the Director of the Office. The Director
4 shall manage the operations of the office.

5 (c) It is the purpose of the office to:

6 (1) Identify or estimate, to the extent reasonably practicable, the timing and location of
7 facility closures and job layoffs in coal-related or timber-related employment in impacted

8 communities, and their effect on impacted workers, businesses, and communities, and together
9 with the Advisory Committee provide planning and make recommendations to the Joint
10 Committee on Government and Finance as to how the office, the department, and other state
11 agencies can most effectively respond to these economic dislocations;

12 (2) Provide administrative, logistical, research, and policy support to the Advisory
13 Committee's work as established pursuant to section four of this article.

14 (3) Based on the draft Coal and Timber Transition Plan recommended by the Advisory
15 Committee, pursuant to section four and section five of this article, and with the approval of the
16 Director and the Secretary, on or before December 31, 2021, the Director shall submit to the
17 Governor and Joint Committee on Government and Finance a final Coal and Timber Transition
18 Plan for West Virginia.

19 (d) After the final Coal and Timber Transition Plan is submitted, the office shall continue
20 to conduct studies and facilitate resources for impacted communities to:

21 (1) Facilitate new and diverse economic activities;

22 (2) Facilitate planning for the management and redevelopment of former coal mines,
23 former coal-fired power plants, paper mills, lumber mills, residential housing, and commercial
24 building stock in the impacted community;

25 (3) Provide assistance to local governments to facilitate economic development and
26 diversification, planning, and the preservation and revitalization of local community assets and
27 resources; and

28 (4) Provide assistance to facilitate the retraining of impacted workers.

§5B-2J-4. Coal and Timber Transition Advisory Committee established.

1 (a) There is hereby created the "Coal and Timber Transition Advisory Committee" to
2 develop and recommend a Coal and Timber Transition Plan for the State of West Virginia.

3 (b) The Advisory Committee consists of the following members:

4 (1) The Commissioner of the Division of Labor or a designee;

5 (2) The Director of the Office of Economic Development or a designee;

6 (3) The Director of the Department of Commerce or a designee;

7 (4) One representative of the Office of the Governor;

8 (5) One member of the Senate appointed by the President of the Senate, and one member
9 of the House of Delegates, appointed by the Speaker of the House; and

10 The following members, to be appointed by the Director:

11 (6) Two representatives who live in an impacted community and operate a business in an
12 impacted community.

13 (7) Three representatives of impacted workers from impacted communities, one of whom
14 shall be from the largest labor union representing coal miners;

15 (8) Two representatives with professional economic development or workforce retraining
16 experience; and

17 (9) One representative of utilities that, on the effective date of this section, operated one
18 or more coal-fueled electric generating units.

19 (10) One representative of the coal industry that, on the effective date of this section,
20 operated one or more coal mines, a downstream industry reliant on coal, or an upstream industry
21 reliant on coal.

22 (c) The Advisory Committee shall elect a chairperson and vice chairperson from among
23 its members to serve for a term not to exceed two years, as determined by the Advisory
24 Committee. The Advisory Committee shall meet at least once every quarter. The chairperson may
25 call such additional meetings as are necessary for the Advisory Committee to complete its duties.

26 (d) Each member of the Advisory Committee is entitled to receive reimbursement for
27 actual and necessary expenses pursuant to §4-2A-6 of this code.

28 (e) The Advisory Committee may engage additional nonvoting members or advisors and
29 provide additional expertise as needed.

§5B-2J-5. Coal and Timber Transition Plan.

1 (a) The Coal and Timber Transition Plan drafted by the Advisory Committee shall include,
2 at a minimum:

3 (1) Grants and other local, state, federal, and other sources of funding that the office shall
4 identify, coordinate, and implement pursuant to the authority of this article to provide assistance
5 to impacted communities, including the establishment of grant programs to help impacted
6 communities, and recommendations to align and target existing local, state, and federal funding
7 resources and leverage additional funding resources to support impacted communities and
8 impacted workers;

9 (2) Other programs and activities that the office shall coordinate and implement pursuant
10 to the authority of this article to provide assistance to impacted communities, and
11 recommendations to align and target existing local, state, and federal programs and activities and
12 establish additional programs and activities to support impacted communities and impacted
13 workers; and

14 (3) Recommendations for legislation, studies and other activities at the initiative of the
15 office and under the direction of the Legislature that require additional legislative authority or
16 appropriation to implement; and

17 (4) Planning of and facilitation of innovative land use and economic development activities
18 that impacted communities can use to diversify their economies.

19 (b) In developing the draft Coal and Timber Transition Plan, the Advisory Committee shall
20 identify and consider:

21 (1) The projected short-term and long-term costs and benefits to the state of each plan
22 component, and other supports;

23 (2) Potential sources for sustainable short-term and long-term funding for a Coal and
24 Timber Transition Plan and its components;

25 (3) The potential fiscal, economic, workforce, and other implications of extending
26 components of the Coal and Timber Transition Plan to other sectors and industries affected by
27 similar economic disruptions; and

28 (4) Which components of the Coal and Timber Transition Plan can be implemented under
29 existing authority and which require additional legislation.

30 (c) Prior to final adoption of the Coal and Timber Transition Plan, the Advisory Committee
31 shall hold at least three public hearings in the state, with at least one hearing held in each
32 congressional district of the state.

33 (d) On or before July 1, 2021, the Advisory Committee shall present its draft Coal and
34 Timber Transition Plan to the Director of the Office.

35 (e) The Advisory Committee shall deliver a yearly report to the Governor and the Joint
36 Committee on Government and Finance by December 31.

**§5B-2J-6. Coal mine, electric utility, and timber Workforce Transition Plans; reemployment
of affected workers.**

1 (a) The following entities shall submit a notification to the office and to County Commission
2 a Workforce Transition Plan within the specified time period:

3 (1) Coal mining operations, within 60 days of submission of a federally mandated Worker
4 Adjustment and Retraining Notification of plant closing or mass layoff of an any surface;
5 underground coal mining operation pursuant to United States Code 29 U.S.C. §2101 *et seq.*, or

6 (2) Electric utilities, within 30 days after the approval to accelerate retirement of a
7 generating unit by the utility's governing body and in no case less than six months before the
8 retirement of an electric coal-fueled generating unit that has a nameplate capacity of at least 50
9 megawatts; or

10 (3) Logging companies, paper mills, sawmills, and other timber related manufacturers,
11 within 60 days of a federally mandated Worker Adjustment and Retraining Notification of plant

12 closing or mass layoff of an any surface or underground coal mining operation pursuant to United
13 States Code 29 U.S.C. §2101 et seq.

14 (b) To the extent practicable, a Workforce Transition Plan must include estimates of:

15 (1) The number of workers and contractors employed at the facility;

16 (2) The total number of workers who will be retrained; and

17 (3) The total number of workers who will be eliminated as a result of the closure of the
18 surface or underground coal mine, or retirement of the coal-fueled electric generating facility.

19 (c) With respect to the workers whose existing jobs will be eliminated, the total number
20 and the number by job classification of workers:

21 (1) Whose employment will end without them being offered other employment;

22 (2) Who will retire as planned, be offered early retirement, or leave on their own;

23 (3) Who will be retained by being transferred to other facilities or offered other employment
24 by the operator; and

25 (4) For any coal-fueled electric generating facility, the number of workers who will be
26 retained to continue to work in a new job classification; and if the electric utility is replacing the
27 coal-fueled electric generating facility being retired with a new electric generating facility, the
28 number of:

29 (A) Workers from the retired coal-fueled electric generating facility who will be employed
30 at the new electric generating facility; and

31 (B) Jobs at the new electric generating facility that will be outsourced to contractors or
32 subcontractors.

§5B-2J-7. Expiration of article.

1 The provisions of this article shall expire and be of no force or effect, effective January 1,
2 2026.

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