

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4652

FISCAL
NOTE

By Delegate Steele

[Introduced January 12, 2024; Referred
to the Committee on Energy and Manufacturing then
Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §5B-2P-1, §5B-2P-2, §5B-2P-3 and §5B-2P-4; and to amend said code by
 3 adding thereto a new section, designated §22-5-11b of said code, all relating generally to
 4 the Natural Gas Fired Electricity Generation Development Act of 2024; providing for a
 5 short title; making legislative findings and declarations; and requiring designation of
 6 suitable sites for natural gas electric generation and reporting to the Division of Air Quality
 7 of the West Virginia Department of Environmental Protection and the West Virginia Public
 8 Service Commission; requiring construction and operating permits for natural gas electric
 9 generation facilities, including expedited consideration.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2P. NATURAL GAS FIRED ELECTRICITY GENERATION DEVELOPMENT

ACT OF 2024.

§5B-2P-1. Short title.

1 This article shall be known and cited as the "Natural Gas Electric Generation Development
 2 Act."

§5B-2P-2. Legislative findings; declaration of public policy.

1 (a) The Legislature finds that:

2 (1) The advent and advancement of new and existing technologies and drilling practices
 3 have created the opportunity for efficient development of natural gas in West Virginia, including
 4 opportunities for the production of electricity;

5 (2) Production of electricity utilizing natural gas produced in West Virginia is highly
 6 underdeveloped in comparison to nearby states with which West Virginia competes for
 7 economically beneficial projects. Natural gas electric generation projects have been undermined
 8 by existing regulatory requirements and related time delays;

9 (3) In developing regulatory actions and identifying appropriate approaches to encourage
10 development of natural gas electric generation projects, agencies shall attempt to promote
11 coordination, simplification, and harmonization. Agencies shall also seek to identify appropriate
12 means to achieve regulatory goals that are designed to promote innovation and enhance West
13 Virginia's competitiveness with surrounding states;

14 (4) Agencies shall review their existing legislative and procedural rules to determine
15 whether any such rules should be modified, streamlined, expanded, or repealed so as to make the
16 agency's regulatory program more effective or less burdensome in achieving the regulatory
17 objectives related to natural gas electric generation projects. Agencies shall also evaluate the
18 data that they have to determine what information might be useful to prompt permitting and
19 approval of natural gas generated electricity; and

20 (5) The West Virginia Economic Development Authority ("WVEDA") established in §31-15-
21 1 et seq. of this code and the West Virginia Infrastructure and Jobs Development Council created
22 in §31-15A-1 et seq. of this code, shall provide as much assistance as possible to grow and
23 sustain the natural gas electric generation segment of the economy.

24 (b) The Legislature declares that facilitating the development of business activity directly
25 and indirectly related to natural gas electric generation development, transportation, storage, and
26 use serves the public interest of the citizens of this state by promoting economic development and
27 improving economic opportunities for the citizens of this state.

§5B-2P-3. Identification of suitable sites for natural gas electric generation projects.

1 (a) The West Virginia Economic Development Authority ("WVEDA") is authorized and
2 directed to identify economically viable sites within the state that are:

3 (1) Located near a convenient and sufficient supply of natural gas;

4 (2) Located near consumers to provide a convenient supply of the generated electricity;

5 and,

6 (3) Likely to create economically viable natural gas electric generation projects that provide

7 economic benefits to the local and state governmental units and the citizens of the state.

8 (b) The WVEDA shall use the following criteria in identifying economically viable sites for
9 natural gas electric generation projects:

10 (1) Geographic locations near producing natural gas wells or pipelines carrying natural gas
11 produced in the state capable of supplying and sustaining one or more natural gas electric
12 generation facilities for the economic life of the facilities;

13 (2) Geographic locations near existing electric transmission infrastructure capable of
14 transmitting the generated electricity to wholesale consumers and industrial, commercial, or
15 residential consumers in the state by one or more natural gas electric generation facilities for the
16 economic life of the facilities;

17 (3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air
18 Quality of the West Virginia Department of Environmental Protection ("WVDEP") for one or more
19 natural gas electric generation facilities; and

20 (4) Geographic locations that can demonstrate that allowable emission increases from one
21 or more natural gas electric generation facilities, in conjunction with all other applicable emission
22 increases or reductions (including secondary emissions), would not cause or contribute to air
23 pollution in violation of:

24 (A) Any national or West Virginia Ambient Air Quality Standard in any air quality control
25 region; or

26 (B) Any applicable maximum allowable increase over the baseline concentration in any
27 area.

§5B-2P-4. Designation of sites suitable for natural gas electric generation projects.

1 (a) Following identification of economically viable sites that may be suitable for natural gas
2 electric generation projects, the West Virginia Economic Development Authority ("WVEDA") shall
3 identify and designate all sites it has determined to be suitable for natural gas electric generation
4 projects as "Designated Sites", and shall communicate the Designated Sites to the West Virginia

5 Department of Environmental Protection's ("WVDEP") Division of Air Quality and the West Virginia
 6 Public Service Commission ("PSC") as sites suitable for the construction and operation of natural
 7 gas electric generation projects.

8 (b) Any application for a Certificate of Public Convenience and Necessity filed with the
 9 PSC for development of a natural gas electric generation project at a Designated Site shall be
 10 adjudicated, and a final order issued by the PSC, within 270 calendar days after the date of the
 11 filing of the application, notwithstanding the requirements of any other provision of this code.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 5. AIR POLLUTION CONTROL.

§22-5-11b. Construction and operating permits required for natural gas electric generation facilities as stationary sources of air pollutants.

1 (a) This section applies to natural gas electric generation facilities as identified and
 2 communicated to the secretary by the West Virginia Economic Development Authority ("WVEDA")
 3 as sites that may be suitable for one or more natural gas electric generation facilities in
 4 accordance with §5B-2P-1 et seq. of this code, or as identified by an applicant for a construction
 5 and operating permit for one or more natural gas electric generation facilities.

6 (b) The secretary shall take all reasonable steps to expedite consideration of permit
 7 applications utilizing sites designated by the WVEDA as a site suitable for use as a natural gas
 8 electric generation facility and communicated to the secretary in accordance with §5B-2P-1 et seq.
 9 of this code. These steps shall include:

10 (1) An initial determination of whether the identified site is in compliance with National
 11 Ambient Air Quality Standards and the West Virginia State Implementation Plan, whether
 12 emissions from a natural gas electric generation facility would be likely to interfere with compliance
 13 with the same and, if interference is likely, the steps necessary to avoid noncompliance with
 14 National Ambient Air Quality Standards and the State Implementation Plan; and

15 (2) Evaluation of whether there is sufficient data, meteorological and otherwise, that would
16 allow acceptable modeling of the impacts of emissions from a natural gas electric generation
17 facility, and if not, construction of sampling and measuring devices to acquire such data at the site.

18 (c) Unless otherwise specifically provided in this article, the secretary shall issue a permit
19 for a natural gas electric generation facility which is determined to be a major stationary source
20 within a reasonable time, not to exceed 270 calendar days, after the secretary determines that the
21 application is complete. The secretary shall determine whether an application is complete within
22 30 days from the date the permit application is filed with the secretary and communicated to the
23 permit applicant.

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NOTE: The purpose of this bill is to encourage development, transportation and use of electricity generated using West Virginia natural gas as the energy source for generating electricity by directing the West Virginia Economic Development Authority to identify and designate sites suitable for natural gas electric generation facilities and by providing for timely consideration and decision concerning applications for permits to construct and operate natural gas electric generation facilities.

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