

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 618

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[Originating in the Committee on Government

Organization; reported February 21, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §22-37-1, §22-37-2, §22-37-3, §22-37-4, §22-37-5, §22-37-6, §22-37-7, and
3 §22-37-8, all relating to authorizing Division of Forestry to administer Carbon Exchange
4 Program; outlining scope of Carbon Exchange Program; and providing program
5 requirements for Carbon Exchange Program.

Be it enacted by the Legislature of West Virginia:

ARTICLE 37. CARBON EXCHANGE PROGRAM.

§22-37-1. Short title.

1 This article shall be known and cited as the Carbon Exchange Program.

§22-37-2. Legislative findings.

1 The Legislature finds that:

2 (1) West Virginia, as a national energy leader, is positioned to create a voluntary market
3 for the sale and purchase of carbon offset credits.

4 (2) Increased use of pollution prevention strategies, more cost-effective options for
5 compliance with environmental standards, and improvement of environmental performance can
6 be achieved through the establishment of a Carbon Exchange Program.

7 (3) While West Virginia's existing environmental laws play an important role in protecting
8 the environment, environmental protection could be further enhanced by authorizing innovative
9 advances in environmental regulatory methods and approaches.

10 (4) A state-regulated Carbon Exchange Program will further West Virginia's role as an
11 energy leader, incentivize economic investment, encourage environmental protection, and protect
12 West Virginia forest landowners, forest product businesses, and consumers.

§22-37-3. Purpose.

1 The purpose of this article is to authorize the Division of Forestry to administer a Carbon
2 Exchange Program, known as the Carbon Exchange, to regulate the sale and purchase of carbon
3 credits, and which shall serve as the exclusive contracting platform for all carbon credit

4 agreements encumbering or involving real property and standing timber located in West Virginia.
5 The division shall develop scientific methodologies that calculate and include the long-term
6 carbon captures from the production of forest products and a substitution factor (or product
7 displacement factor) accounting for the use of forest products over products that would have a
8 higher carbon emissions footprint.

§22-37-4. Definitions.

1 "Carbon credit" means an emission reduction of one metric ton of carbon dioxide (or
2 carbon dioxide equivalent) resulting from greenhouse gas emissions reductions.

3 "Carbon credit agreement" means any contract for the sale or purchase of West Virginia
4 carbon credits.

5 "Carbon dioxide equivalent" means the number of tons of carbon dioxide emissions with
6 the same global warming potential as one ton of another greenhouse gas.

7 "Country of particular concern" means a country that has been designated as such by the
8 Department of State of the United States of America pursuant to 22 U.S.C. § 6448.

9 "Division" means the Division of Forestry.

10 "Director" means the Director of the Division of Forestry.

11 "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, or fluorinated gases.

12 "West Virginia carbon credit" means a division-certified carbon credit that is generated in,
13 or originates principally as a result of activity in, West Virginia.

§22-37-5. Scope; eligibility.

1 (a) The director shall, by July 1, 2025, establish the West Virginia Carbon Exchange on
2 which all West Virginia carbon credits shall be listed. No carbon credit originating from real
3 property or standing timber in West Virginia may be sold other than through the West Virginia
4 Carbon Exchange.

5 (b) The West Virginia Carbon Exchange shall regulate all West Virginia carbon credits and
6 carbon credit agreements.

7 (c) The West Virginia Carbon Exchange shall be a public marketplace open to businesses
8 and consumers alike: *Provided*, That all persons or businesses shall register with the division
9 before participating in the West Virginia Carbon Exchange.

10 (d) West Virginia carbon credits that are created as a result of activities or restrictions on
11 state property, including state forests and parks, are the property of the state, and may be sold
12 as such.

13 (e) Citizens of, or entities organized in or controlled by citizens or governments of, any
14 country designated as a country of particular concern by the Department of State of the United
15 States of America are ineligible to register with the division for the West Virginia Carbon
16 Exchange.

17 (f) The division shall consider the production of forest products and the displacement effect
18 of those products as meeting the definition of “additionality” when certifying carbon credits.

§22-37-6. Program administration.

1 (a) The West Virginia Carbon Exchange shall allow landowners and timber owners to
2 publish West Virginia carbon credits on the exchange for the solicitation of carbon credit
3 agreements.

4 (b) The West Virginia Carbon Exchange shall allow persons interested in purchasing West
5 Virginia carbon credits to solicit offers for carbon credit agreements.

6 (c) The division shall certify carbon credits before their publication on the West Virginia
7 Carbon Exchange.

8 (d) Only West Virginia carbon credits are eligible for sale or purchase. The division shall
9 maintain a public catalog of available West Virginia carbon credits along with a registry of all West
10 Virginia lands encumbered by carbon agreements beginning upon the effective date of this article.

11 (e) The West Virginia Carbon Exchange shall review all carbon credit agreements for
12 compliance with the requirements of this article and associated regulations, including but not
13 limited to:

14 (1) Carbon credit certification criteria;

15 (2) Price floors and ceilings; and

16 (3) Contract term limits.

17 (f) The division may propose rules, including emergency rules, pursuant to §29A-3-1 et

18 seq. of this code to execute and implement the West Virginia Carbon Exchange, including

19 adopting a fee schedule to fund the administration of the exchange and setting standards for

20 certification of carbon credits.

21 (g) The division may contract for operational and administration support services from

22 third-party providers as necessary to execute, implement, and administer the West Virginia

23 Carbon Exchange: *Provided*, That for purposes of this article, the division shall be exempt from

24 the provisions of §5A-3-1 et seq. of this code.

§22-37-7. Appeals.

1 Any person or business adversely affected by a final order or decision of the division,

2 including, but not limited to, a carbon credit certification decision or imposition of a condition on a

3 carbon credit agreement, may pursue an appeal in accordance with the provisions of §29A-5-1 et

4 seq. and §29A-6-1 et seq. of this code.

§22-37-8. Cooperation with other state agencies; reports to Legislature.

1 (a) The division shall cooperate with other state agencies to administer the West Virginia

2 Carbon Exchange in the best interest of the state.

3 (1) The West Virginia Geological and Economic Survey shall be available to provide its

4 expertise and assistance.

5 (2) The West Virginia Department of Environmental Protection shall be available to provide

6 its expertise and assistance.

7 (b) The division shall submit an annual report on the impacts of the West Virginia Carbon

8 Exchange to the Governor, the Speaker of the House of Delegates, and the President of the

9 Senate.