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**H. B. 3180**

(By Delegates Butcher, Givens, Hatfield,  
Martin, R. Phillips, Skaff, Manchin, Evans,  
Walker, Perry and Michael)

[Introduced February 18, 2011; referred to the  
Committee on Government Organization then Finance.]

A BILL to amend and reenact §22C-1-6 of the Code of West Virginia,  
1931, as amended, relating to authorizing the appointment of  
certain individuals to carry out the business of the Water  
Development Authority; authorizing the Water Development  
Authority to fix the compensation of those certain employees;  
and requiring the Water Development Authority to employ all  
other employees pursuant to the state Civil Service System.

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

That §22C-1-6 of the Code of West Virginia, 1931, as amended,  
be amended and reenacted to read as follows:

**ARTICLE 1. WATER DEVELOPMENT AUTHORITY.**

**§22C-1-6. Powers, duties and responsibilities of authority  
generally.**

The Water Development Authority has and may exercise all  
powers necessary or appropriate to carry out and effectuate its  
corporate purpose. The authority has the power and capacity to:

1           (1) Adopt and, from time to time, amend and repeal bylaws  
2 necessary and proper for the regulation of its affairs and the  
3 conduct of its business and rules to implement and make effective  
4 its powers and duties, such rules to be promulgated in accordance  
5 with the provisions of chapter twenty-nine-a of this code.

6           (2) Adopt an official seal.

7           (3) Maintain a principal office and, if necessary, regional  
8 suboffices at locations properly designated or provided.

9           (4) Sue and be sued in its own name and plead and be impleaded  
10 in its own name and particularly to enforce the obligations and  
11 covenants made under sections nine, ten and sixteen of this  
12 article. Any actions against the authority shall be brought in the  
13 circuit court of Kanawha County in which the principal office of  
14 the authority shall be located.

15           (5) Make loans and grants to governmental agencies for the  
16 acquisition or construction of water development projects by any  
17 such governmental agency and, in accordance with the provisions of  
18 chapter twenty-nine-a of this code, adopt rules and procedures for  
19 making such loans and grants.

20           (6) Acquire, construct, reconstruct, enlarge, improve,  
21 furnish, equip, maintain, repair, operate, lease or rent to, or  
22 contract for operation by a governmental agency or person, water  
23 development projects and, in accordance with the provisions of  
24 chapter twenty-nine-a of this code, adopt rules for the use of such

1 projects.

2       (7) Make available the use or services of any water  
3 development project to one or more persons, one or more  
4 governmental agencies or any combination thereof.

5       (8) Issue water development revenue bonds and notes and water  
6 development revenue refunding bonds of the state, payable solely  
7 from revenues as provided in section nine of this article unless  
8 the bonds are refunded by refunding bonds, for the purpose of  
9 paying all or any part of the cost of, or financing by loans to  
10 governmental agencies, one or more water development projects or  
11 parts thereof.

12       (9) Acquire by gift or purchase, hold and dispose of real and  
13 personal property in the exercise of its powers and the performance  
14 of its duties as set forth in this article.

15       (10) Acquire in the name of the state, by purchase or  
16 otherwise, on such terms and in such manner as it deems proper, or  
17 by the exercise of the right of eminent domain in the manner  
18 provided in chapter fifty-four of this code, such public or private  
19 lands, or parts thereof or rights therein, rights-of-way, property,  
20 rights, easements and interests it deems necessary for carrying out  
21 the provisions of this article, but excluding the acquisition by  
22 the exercise of the right of eminent domain of any public water  
23 facilities, stormwater systems or wastewater facilities, operated  
24 under permits issued pursuant to the provisions of article eleven,

1 chapter twenty-two of this code and owned by any person or  
2 governmental agency, and compensation shall be paid for public or  
3 private lands so taken.

4       (11) Make and enter into all contracts and agreements and  
5 execute all instruments necessary or incidental to the performance  
6 of its duties and the execution of its powers. When the cost under  
7 any such contract or agreement, other than compensation for  
8 personal services, involves an expenditure of more than \$2,000, the  
9 authority shall make a written contract with the lowest responsible  
10 bidder after public notice published as a Class II legal  
11 advertisement in compliance with the provisions of article three,  
12 chapter fifty-nine of this code, the publication area for such  
13 publication to be the county wherein the work is to be performed or  
14 which is affected by the contract, which notice shall state the  
15 general character of the work and the general character of the  
16 materials to be furnished, the place where plans and specifications  
17 therefor may be examined and the time and place of receiving bids,  
18 but a contract or lease for the operation of a water development  
19 project constructed and owned by the authority or an agreement for  
20 cooperation in the acquisition or construction of a water  
21 development project pursuant to section sixteen of this article is  
22 not subject to the foregoing requirements and the authority may  
23 enter into such contract or lease or such agreement pursuant to  
24 negotiation and upon such terms and conditions and for such period

1 as it finds to be reasonable and proper under the circumstances and  
2 in the best interests of proper operation or of efficient  
3 acquisition or construction of such project. The authority may  
4 reject any and all bids. A bond with good and sufficient surety,  
5 approved by the authority, is required of all contractors in an  
6 amount equal to at least fifty percent of the contract price,  
7 conditioned upon the faithful performance of the contract.

8 (12) ~~Employ managers, superintendents and other employees, who~~  
9 ~~are covered by the state civil service system, and retain or~~  
10 ~~contract with consulting engineers, financial consultants,~~  
11 ~~accounting experts, architects, attorneys and such other~~  
12 ~~consultants and independent contractors as are necessary in its~~  
13 ~~judgment to carry out the provisions of this article and fix the~~  
14 ~~compensation or fees thereof. All expenses thereof are payable~~  
15 ~~solely from the proceeds of water development revenue bonds or~~  
16 ~~notes issued by the authority, from revenues and from funds~~  
17 ~~appropriated for such purpose by the Legislature~~ Appoint two  
18 construction project managers, one GIS Manager II, one GIS  
19 Programmer Analyst III, two Accountants/Auditors III, one Financial  
20 Reporting Specialist II, two Financial Reporting Specialists I, one  
21 CFO, one Public Information Specialist III and any accountants,  
22 engineers, or attorneys as are necessary in the authority's  
23 judgment to carry out the provisions of this article outside the  
24 state Civil Service System for the transaction of its business.

1 All such employees of the authority may be removed at the  
2 discretion of the authority.

3 (13) Fix the compensation and define the duties and  
4 responsibilities of the appointees designated in subsection twelve  
5 of this section and provide a system of organization to promote  
6 efficiency. The authority may reimburse any state spending unit  
7 for any special expense actually incurred in providing any service  
8 or the use of any facility to the authority.

9 (14) Employ other employees not mentioned in subsection (12)  
10 of this section as are necessary in the authority's judgment to  
11 carry out the provisions of this article in accordance with article  
12 six, chapter twenty-nine of this code.

13 ~~(13)~~ (15) Receive and accept from any federal agency, subject  
14 to the approval of the Governor, grants for or in aid of the  
15 construction of any water development project or for research and  
16 development with respect to public water facilities, stormwater  
17 systems or wastewater facilities and receive and accept aid or  
18 contributions from any source of money, property, labor or other  
19 things of value to be held, used and applied only for the purposes  
20 for which such grants and contributions are made.

21 ~~(14)~~ (16) Engage in research and development with respect to  
22 public water facilities, stormwater systems or wastewater  
23 facilities.

24 ~~(15)~~ (17) Purchase property coverage and liability insurance

1 for any water development project and for the principal office and  
2 suboffices of the authority, insurance protecting the authority and  
3 its officers and employees against liability, if any, for damage to  
4 property or injury to or death of persons arising from its  
5 operations and any other insurance the authority may agree to  
6 provide under any resolution authorizing the issuance of water  
7 development revenue bonds or in any trust agreement securing the  
8 same.

9       ~~(16)~~ (18) Charge, alter and collect rentals and other charges  
10 for the use or services of any water development project as  
11 provided in this article and charge and collect reasonable  
12 interest, fees and charges in connection with the making and  
13 servicing of loans to governmental agencies in the furtherance of  
14 the purposes of this article.

15       ~~(17)~~ (19) Establish or increase reserves from moneys received  
16 or to be received by the authority to secure or to pay the  
17 principal of and interest on the bonds and notes issued by the  
18 authority pursuant to this article.

19       ~~(18)~~ (20) Administer on behalf of the Department of  
20 Environmental Protection the Dam Safety Rehabilitation Revolving  
21 Fund Loan Program pursuant to the provisions of article fourteen of  
22 chapter twenty-two of this code. Revenues or moneys designated by  
23 this code or otherwise appropriated for use by the authority  
24 pursuant to the provisions of this article may not be used for the

1 Dam Safety Rehabilitation Revolving Fund Loan Program and moneys in  
2 the Dam Safety Rehabilitation Revolving Fund shall be kept separate  
3 from all revenues and moneys of the authority.

4 ~~(19)~~ (21) Do all acts necessary and proper to carry out the  
5 powers expressly granted to the authority in this article.

NOTE: The purpose of this bill is to provide the Water Development Authority with authority relating to the appointment of individuals to carry out the business of the authority.

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