

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2796

FISCAL
NOTE

BY DELEGATE HANSHAW

[Introduced March 6, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §15-1J-4 of the Code of West Virginia, 1931, as amended, all
 2 relating to the West Virginia Military Authority entering into contracts and subcontracts on
 3 behalf of the West Virginia National Guard for specialized technical services at a rate
 4 commensurate with industry standards as determined by the Adjutant General.

Be it enacted by the Legislature of West Virginia:

1 That §15-1J-2 and §15-1J-4 of the Code of West Virginia, 1931, as amended, be amended
 2 and reenacted to read as follows:

ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.

§15-1J-2. Legislative findings.

1 The Legislature finds that the West Virginia National Guard is a unique entity that has a
 2 dual mission for both West Virginia and the United States. In this dual capacity, the West Virginia
 3 National Guard receives funds to administer programs, including the hiring of employees, that the
 4 federal government, including the Department of Defense, provides to the guard in support of
 5 specific activities for various federal agencies for national security and homeland security
 6 purposes. These programs fulfill specific agency purposes and necessarily require continued
 7 funding by the federal government.

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

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

1 (a) The West Virginia Military Authority is hereby established to administer national
 2 security, homeland security and other military-related or sponsored programs.

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

5 (c) Funds provided by the federal government and any state funds authorized by
6 appropriation of the Legislature used as a required match to secure federal funding for programs
7 administered by the authority pursuant to this section shall be administered by the Adjutant
8 General subject to the provisions of article eleven, chapter four of this code.

9 (d) Except as otherwise prohibited by statute, the authority, as a governmental
10 instrumentality exercising public powers of the state, shall have and may exercise all powers
11 necessary or appropriate to carry out the purpose of this article, including the authority to:

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

14 (2) Contract on behalf of the guard with the federal government, its instrumentalities and
15 agencies, any state, territory or the District of Columbia and its agencies and instrumentalities,
16 municipalities, foreign governments, public bodies, private corporations, partnerships,
17 associations and individuals;

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

21 (4) Accept and use funds from the federal government, its instrumentalities and agencies,
22 any state, territory or the District of Columbia and its agencies and instrumentalities,
23 municipalities, foreign governments, public bodies, private corporations, partnerships,
24 associations and individuals for the purposes of national security, homeland security and other
25 military-related or -sponsored programs;

26 (5) Procure insurance with state funds through BRIM covering property and other assets
27 of the authority in amounts and from insurers that BRIM determines necessary;

28 ~~(6)~~ (7) Contract on behalf of the guard with the federal government, its instrumentalities and
 29 agencies, any state, territory or the District of Columbia and its agencies and instrumentalities,
 30 municipalities, foreign governments, public bodies, private corporations, partnerships,
 31 associations and individuals for specialized technical services at a rate commensurate with
 32 industry standards as determined by the Adjutant General to support specific activities related to
 33 national security, homeland security and other military-related programs;

34 ~~(6)~~ (7) Hire employees at an appropriate salary equivalent to a competitive wage rate;

35 ~~(7)~~ (8) Enroll employees in PERS, PEIA and workers' compensation and unemployment
 36 programs, or their equivalents: Provided, That the authority, through the receipt of federal and/or
 37 state funds, pays the required employer contributions;

38 ~~(8)~~ (9) Cooperate with economic development agencies in efforts to promote the
 39 expansion of industrial, commercial and manufacturing in the state;

40 ~~(9)~~ (10) Develop a human resources division that will administer and manage its
 41 employees and receive state matching funds as necessary to ensure maximum federal funds are
 42 secured;

43 ~~(10)~~ (11) Due to the at-will employment relationship with the authority, its employees may
 44 not avail themselves of the state grievance procedure as set forth in article six-a, chapter twenty-
 45 nine of this code; and

46 ~~(11)~~ (12) Have the ability to secure all other bonding, insurance or other liability protections
 47 necessary for its employees to fulfill their duties and responsibilities.

NOTE: The purpose of this bill is to allow the guard to contract for specialized technical services with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations and individuals for specialized technical services to support specific activities related to national security, homeland security and other military-related programs.

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