

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**House Bill 3037**

BY DELEGATE ANDERSON

(BY REQUEST OF THE DEPARTMENT OF COMMERCE)

[Passed April 6, 2017; in effect ninety days from passage.]



1 AN ACT to amend and reenact §5B-2F-2 of the Code of West Virginia, 1931, as amended; and  
2 to amend and reenact §5D-1-4 of said code, all relating to the Division of Energy generally;  
3 providing that the division be continued, but shall be designated and known as the Office  
4 of Energy, and shall be organized within the Development Office of the Department of  
5 Commerce; modifying requirements and duties; modifying composition of the West  
6 Virginia Public Energy Authority Board; and designating the Secretary of Commerce or his  
7 or her designee as the chair of the West Virginia Public Energy Authority Board.

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

1 That §5B-2F-2 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted; and that §5D-1-4 of said code be amended and reenacted, all to read as follows:

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 2F. OFFICE OF ENERGY.**

**§5B-2F-2. Purpose; Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and office to promote energy initiatives.**

1 (a) Effective July 1, 2017, the Division of Energy is hereby continued, but shall be  
2 designated and known as the Office of Energy, and shall be organized within the Development  
3 Office of the Department of Commerce. All references throughout this code to the Division of  
4 Energy shall be construed to refer to the Office of Energy. The office may receive federal funds.

5 (b) The office is intended to provide leadership for developing energy policies emphasizing  
6 the increased efficiency of energy use, the increased development and production of new and  
7 existing domestic energy sources, the increased awareness of energy use on the environment  
8 and the economy, dependable, efficient and economical statewide energy systems capable of  
9 supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous  
10 to imported energy use is increased, reduce the ratio energy consumption to economic activity

11 and maintain low-cost energy. The energy policies and development plans shall also provide  
12 direction for the private sector.

13 (c) The office shall have authority over the energy efficiency program existing under the  
14 West Virginia Development Office.

15 (d) The office shall develop an energy policy and shall report the same back to the  
16 Governor and the Joint Committee on Government and Finance before December 1, 2007. The  
17 energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a  
18 direction for the private sector. Prior to the expiration of the energy policy, the office shall begin  
19 review of the policy and submit a revised energy policy to the Governor and the Joint Committee  
20 on Government and Finance six months before the expiration of the policy.

21 (e) The office shall prepare and submit an annual energy development plan to the  
22 Governor and the Joint Committee on Government and Finance on or before December 1 of each  
23 year. The development plan shall relate to the office's implementation of the energy policy and  
24 the activities of the office during the previous year. The development plan shall include any  
25 recommended legislation. The Public Energy Authority, the Office of Coalfield Community  
26 Development, the energy efficiency program, the Department of Environmental Protection and  
27 the Public Service Commission, in addition to their other duties prescribed by this code, shall  
28 assist the office in the development of an energy policy and related development plans. The  
29 energy development plan shall set forth the plans for implementing the state's energy policy and  
30 shall provide a direction for the private sector. The energy development plan shall recognize the  
31 powers of the Public Energy Authority as to development and financing of projects under its  
32 jurisdiction and shall make such recommendations as are reasonable and practicable for the  
33 exercise of such powers.

34 (f) The office shall hold public hearings and meetings with notice to receive public input  
35 regarding proposed energy policies and development plans. The energy policy and development  
36 plans required by subsections (d) and (e) of this section shall address increased efficiency of

37 energy use, traditional and alternative energy, water as a resource and a component of energy  
38 production, energy distribution systems, the siting of energy facilities, the increased development  
39 and production of new and existing domestic energy sources, increased awareness of energy use  
40 on the environment and the economy, energy infrastructure, the development and implementation  
41 of renewable, clean, technically innovative and advanced energy projects in this state. Projects  
42 may include, without limitation, solar and wind energy, low-impact hydro power, geothermal,  
43 biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine  
44 methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal  
45 liquefaction technologies.

46 (g) The office may propose rules for legislative approval in accordance with the provisions  
47 of article three, chapter twenty-nine-a of this code designed to implement an energy policy and  
48 development plan in accordance with the provisions of this chapter.

49 (h) The energy policy and development plans required by subsections (d) and (e) of this  
50 section shall identify and report on the energy infrastructure in this state and include without  
51 limitation energy infrastructure related to protecting the state's essential data, information systems  
52 and critical government services in times of emergency, inoperativeness or disaster. In  
53 consultation with the Director of the Division of Homeland Security and Emergency Management,  
54 the office shall encourage the development of energy infrastructure and strategic resources that  
55 will ensure the continuity of governmental operations in situations of emergency, inoperativeness  
56 or disaster.

57 (i) In preparing or revising the energy policy and development plan, the office may rely  
58 upon internal staff reports or the advice of outside advisors or consultants and may procure such  
59 services with the consent of the Secretary of Commerce. The office may also involve national,  
60 state and local government leadership and energy experts.

61 (j) The office shall prepare an energy use database, including without limitation, end-use  
62 applications and infrastructure needs for different classes of energy users including residential,

63 commercial and industrial users, data regarding the interdependencies and sources of electricity,  
64 oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned  
65 facilities and collect data on the impact of the energy policy and development plan on the  
66 decisions and strategies of energy users of the state.

67 (k) The office shall promote collaboration between the state's universities and colleges,  
68 private industry and nonprofit organizations to encourage energy research and leverage available  
69 federal energy research and development resources.

70 (l) The office shall promote initiatives to enhance the nation's energy security through  
71 research and development directed at transforming the state's energy resources into the  
72 resources that fuel the nation.

73 (m) The office shall work with the President of the United States and his or her  
74 administration to develop a plan that would allow West Virginia to become the leader in  
75 transitioning the United States to a new energy future.

76 (n) The office is to determine the best way for West Virginia to utilize its resources and  
77 any federal funding to develop the technologies that are necessary for such a transition.

78 (o) The office is to clearly articulate West Virginia's position on an energy solution for the  
79 United States that encompasses clean coal, natural gas, transtech energy technologies and  
80 renewable energy technologies.

81 (p) The office shall develop and distribute an informational program and policies that  
82 emphasize the importance of West Virginia energy resources and their positive impact on the  
83 eastern seaboard and the nation.

84 (q) The office shall monitor legal challenges to the energy industries in the state and submit  
85 a report quarterly to the Joint Committee on Government and Finance. The report shall contain  
86 information relating to any litigation that challenges any statute that could affect the production,  
87 distribution and utilization of natural resources of the state.

## CHAPTER 5D. PUBLIC ENERGY AUTHORITY ACT.

### ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF WEST VIRGINIA.

#### **§5D-1-4. West Virginia Public Energy Authority continued; West Virginia Public Energy Board continued; organization of authority and board; appointment of board members; term, compensation and expenses; director of authority; appointment.**

1 (a) The West Virginia Public Energy Authority is continued. The authority is a  
2 governmental instrumentality of the state and a body corporate. The exercise by the authority of  
3 the powers conferred by this article and the carrying out of its purposes and duties are essential  
4 governmental functions and for a public purpose.

5 (b) The authority shall be controlled, managed and operated by a seven-member board  
6 known as the West Virginia Public Energy Authority Board, which is continued. The seven  
7 members include the Secretary of the Department of Commerce or designee; the Secretary of  
8 the Department of Environmental Protection or designee; the Director of the Economic  
9 Development Authority or designee; and four members representing the general public. The  
10 public members are appointed by the Governor, by and with the advice and consent of the Senate,  
11 for terms of one, two, three and four years, respectively.

12 (c) On June 30, 2007, the terms of all appointed members shall expire. Not later than July  
13 1, 2007, the Governor shall appoint the public members required in subsection (b) of this section  
14 to assume the duties of the office immediately, pending the advice and consent of the Senate.

15 (d) The successor of each appointed member is appointed for a four-year term. A vacancy  
16 is filled by appointment by the Governor in the same manner as the original appointment. A  
17 member appointed to fill a vacancy serves for the remainder of the unexpired term. Each board  
18 member serves until a successor is appointed.

19 (e) No more than three of the public members may at any one time belong to the same  
20 political party. No more than two public members may be employed by or associated with any

21 industry the authority is empowered to affect. One member shall be a person with significant  
22 experience in the advocacy of environmental protection. Board members may be reappointed to  
23 serve additional terms.

24 (f) All members of the board shall be citizens of the state. Before engaging in their duties,  
25 each member of the board shall comply with the requirements of article one, chapter six of this  
26 code and give bond in the sum of \$25,000 in the manner provided in article two of said chapter.  
27 The Governor may remove any board member as provided in section four, article six of said  
28 chapter.

29 (g) The Secretary of the Department of Commerce or his or her designee shall serve as  
30 chair. The board annually elects one of its members as vice chair and appoints a secretary-  
31 treasurer who need not be a member of the board.

32 (h) Four members of the board constitute a quorum and the affirmative vote of the majority  
33 of members present at any meeting is necessary for any action taken by vote of the board. A  
34 vacancy in the membership of the board does not impair the rights of a quorum by such vote to  
35 exercise all the rights and perform all the duties of the board and the authority.

36 (i) The person appointed as secretary-treasurer, including a board member if so  
37 appointed, shall give bond in the sum of \$50,000 in the manner provided in article two, chapter  
38 six of this code.

39 (j) Each public member shall be reimbursed for reasonable expenses incurred in the  
40 discharge of official duties. All expenses incurred by the board shall be paid in a manner  
41 consistent with guidelines of the Travel Management Office of the Department of Administration  
42 and are payable solely from funds of the authority or from funds appropriated for such purpose  
43 by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which  
44 moneys are available from funds of the authority or from such appropriations.

45 (k) In addition to such other duties and responsibilities as may be prescribed in this code,  
46 the Office of Energy is responsible for managing and administering the daily functions of the  
47 authority and for performing all other functions necessary to the effective operation of the  
48 authority.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2017.

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*Governor*