

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.]

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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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.

Steve Anderson
.....
Chairman, House Committee

Mark R. Rayburn
.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Stephan J. Dennis
.....
Clerk of the House of Delegates

Paul A. Berman
.....
Clerk of the Senate

Ch. P. Davis
.....
Speaker of the House of Delegates

Willie B. Combs
.....
President of the Senate

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2017 APR 24 P 4: 15

FILED

The within *is approved* this the *24th*
April day of 2017.

Jim Justice
.....
Governor

PRESENTED TO THE GOVERNOR

APR 18 2017

Time 3:15 pm