

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Senate Bill 609

By Senators Smith, Azinger, Boley, Phillips, Swope,
and Taylor

[Passed March 06, 2023; in effect from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new
2 section, designated §5D-1-5c, relating to and requiring the approval of the Public Energy
3 Authority before decommissioning or deconstructing an existing coal, oil, and natural gas
4 fueled electric power plant; requiring the submission of a petition containing certain
5 specified information; providing for rule-making authority; and exempting certain power
6 plants from the approval requirement.

Be it enacted by the Legislature of West Virginia:

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

§5D-1-5c. Approval of decommissioning or deconstructing an existing power plant.

1 (a) No existing coal, oil, or natural gas fueled power plant shall undertake any
2 decommissioning or deconstructing activities prior to obtaining approval from the authority:
3 *Provided*, That such approval may not be unreasonably withheld.

4 (b) The authority may approve the decommissioning or deconstructing of an existing
5 coal, oil, or natural gas fueled power plant upon the submission of a petition containing, at a
6 minimum, the following information:

7 (1) An analysis by an authority approved third party that evaluates the social,
8 environmental, and economic impact at a local and statewide level of such decommissioning
9 and deconstruction; and

10 (2) Potential alternatives to the decommissioning and deconstruction, including the
11 reconstruction that make use of other technologies, including novel technologies and green
12 technologies as alternative fuel sources.

13 (c) The authority shall propose rules for legislative approval and promulgate emergency
14 rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement this
15 section, including exempting power plants that have been non-producing for at least five years
16 prior to the effective date of this section.