

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2040

By Delegates Burkhammer, Pinson, and Worrell

[Introduced February 12, 2025; referred
to the Committee on Energy and Public Works]

1 A BILL to amend and reenact §5B-2-21 of the Code of West Virginia, 1931, as amended, relating
 2 to the Certified Industrial Business Expansion Development Program; and removing the
 3 provision that electricity provided to high impact industrial business development districts
 4 be generated from renewable sources.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-21. Certified Industrial Business Expansion Development Program.

1 (a) *Program established.* — The Certified Industrial Business Expansion Development
 2 Program is hereby created and is to be administered as a program within the Department of
 3 Economic Development to encourage the continued development, construction, operation,
 4 maintenance, and expansion in West Virginia of high impact industrial plants and facilities, in
 5 certain circumstances where the availability of electricity generated from renewable sources is
 6 demonstrated to be necessary. In order to effectuate the purposes of this section, the Department
 7 of Economic Development or any agency, division, or subdivision thereof, may propose for
 8 promulgation of legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.*
 9 of this code.

10 (b) *District certification.*— The Secretary of the Department of Economic Development
 11 may identify and certify high impact industrial business development districts in this state upon a
 12 finding that the following requirements are met:

13 (1) Certification of the high impact industrial business development district and location of
 14 new or expanded businesses within the district will have a significant and positive economic
 15 impact on the state;

16 (2) Certification of the high impact industrial business development district is necessary to
 17 attract at least two businesses to locate or expand in this state;

18 (3) The area to be certified as a high impact industrial business development district shall
 19 be no greater than 2,250 acres and must be located on land sold or leased by the state, its

20 agencies, or political subdivisions as defined in §29-12A-3(c) of this code with a purpose of
21 creating a high impact industrial business development district or on land that has been previously
22 used for coal mining operations in the state; and

23 (4) The electricity generated from ~~renewable sources~~ within the district will be used within
24 the district or delivered to the wholesale market.

25 The Secretary of the Department of Economic Development may not certify more than two
26 high impact industrial business development districts. A designation made pursuant to this section
27 by the secretary as to the certification of a high impact industrial business development district is
28 final.

29 (c) *Providing electric service within a certified high impact industrial business development*
30 *district.*— Within a high impact industrial business development district, any person, firm,
31 corporation, or entity seeking to provide electric service through the generation of ~~renewable~~
32 ~~sources~~ electricity from within the high impact industrial business development district ~~of electricity~~
33 to businesses locating within the certified high impact industrial business development district
34 may:

35 (1) Not be subject to the jurisdiction of the Public Service Commission with respect to rates,
36 obtaining a certificate of convenience and necessity, conditions of service or complaints pursuant
37 to chapter 24 of this code;

38 (2) Not be subject to the net metering and interconnection standards as set forth in §24-2F-
39 8 of this code;

40 (3) Elect to qualify as an exempt wholesale generator under federal law for purposes of
41 furnishing electric service through the generation of renewable sources to a utility or regional
42 transmission organization without being subject to the Public Service Commission's siting
43 certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-1o of this code;

44 (4) Provide any such electric service to businesses making a capital investment in a new or
45 expanded industrial facility located within the certified high impact industrial business

46 development district; and

47 (5) Not provide any such electric service for purposes of encouraging businesses already
48 receiving electric service from a regulated utility in this state to relocate to the certified high impact
49 industrial business development district.

50 (d) *Eligible electric retail customers.* — In order to take advantage of the provisions of this
51 section, an industrial plant or facility choosing to locate and operate within a high impact industrial
52 business development district must constitute new electric generating load. Any owner or tenant of
53 an industrial plant or facility that has not previously received electric service from a regulated
54 public electric utility located within this state, or who is making a capital investment in a new
55 industrial facility within the district shall be considered eligible new electric generating load.
56 Electric service to any such industrial plant or facility shall be considered new electric generating
57 load so long as any customer making a new capital investment within the district does not
58 decrease the load of an existing facility outside the district in this state in conjunction with the new
59 capital investment within the district, and regardless of whether or not a person or entity previously
60 received service from a public electric utility at or near the same location prior to the certification of
61 the high impact industrial business development district.

62 An eligible industrial plant or facility choosing to locate and operate within a high impact
63 industrial business development district is not required to connect with and use any public electric
64 utility: *Provided*, That any plant or facility choosing to do so may participate in net metering with a
65 public electric utility without being subject to the net metering and interconnection standards set
66 forth in §24-2F-8 of this code: *Provided, however*, That any such connection with and use of a
67 public electric utility for purposes of the initial construction and development within the high impact
68 industrial business development district shall not impact an industrial plant or facility's status as
69 new electric generating load in order to take advantage of the provisions of this section.

70 (e) *Special rates.* — In furtherance of the creation of a high impact industrial business
71 development district, the Public Service Commission may approve special electric utility rates for

72 an eligible electric retail electric customer within the high impact industrial business development
73 district. An eligible retail electric customer seeking to apply for a special rate shall first enter into
74 negotiations with the utility that provides it with electric power, regarding the terms and conditions
75 of a mutually agreeable special rate. If the negotiations result in an agreement between the eligible
76 retail electric customer and the utility, the eligible retail electric customer and the utility shall make
77 a joint filing with the Public Service Commission seeking approval of the proposed special rate. If
78 the negotiations are unsuccessful, the eligible retail electric customer may file a petition with the
79 Public Service Commission to consider establishing a special rate. The Public Service
80 Commission shall have the authority to establish a special rate upon the filing of either a joint filing
81 or a petition pursuant to this section.

82 (f) The provisions of this section shall expire on June 30, 2028: *Provided*, That the
83 expiration of this section shall not affect any high impact industrial business development district
84 previously approved by the secretary.

NOTE: The purpose of this bill is to provide that electricity provided to high impact industrial business development districts are not required to be generated from renewable sources.

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