

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Introduced**

## **House Bill 5038**

**FISCAL  
NOTE**

By Delegates Dillon, Brooks, Martin, Pritt, T. Howell,  
Mazzocchi, Dean, Bridges, Roop, Vance, and Anders

[Introduced February 02, 2026; referred to the  
Committee on Energy and Public Works]

1 A BILL to amend and reenact §5B-2O-1, §5B-2O-2, §5B-2O-3, §5B-2O-4, of the Code of West  
 2 Virginia, 1931, as amended; and to amend the code by adding a new section, designated  
 3 §5B-2O-5, relating to establishing the Affordable Electricity and Economic Growth Act of  
 4 2026 to facilitate coke production and steel-making in the state.

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

**ARTICLE 20. ~~COAL FIRED GRID STABILIZATION AND SECURITY ACT OF 2023~~**  
**AFFORDABLE ELECTRICITY AND ECONOMIC GROWTH ACT OF 2026.**

**§5B-2O-1. Short title.**

1 This article shall be known and cited as the "~~Coal Fired Grid Stabilization and Security Act.~~"  
 2 "Affordable Electricity and Economic Growth Act of 2026."

**§5B-2O-2. Legislative findings; declaration of public policy.**

1 (a) The Legislature finds that:

2 (1) The advent and advancement of new and existing technologies and mining/drilling  
 3 practices have created the opportunity for efficient mining of coal in West Virginia, including  
 4 opportunities for the production of electricity and coke for making steel;

5 (2) Production of electricity utilizing coal produced in West Virginia is now inadequately  
 6 developed in comparison to nearby states with which West Virginia competes for economically  
 7 beneficial projects. Coal electric generation projects have been undermined by existing regulatory  
 8 requirements and related time delays. Additionally, changes in federal economic and trade policy  
 9 are imminent, with a renewed focus on domestic manufacturing and steel production. West  
 10 Virginia is uniquely situated to capitalize on this development through our vast reserves of  
 11 metallurgical coal required to produce coke for making steel. To facilitate this, our state regulatory  
 12 and economic policies must be brought into alignment with the opportunity before us.

13 (3) In developing regulatory actions and identifying appropriate approaches to encourage  
 14 development of coal electric generation and coke production projects, agencies should attempt to

15 promote coordination, simplification, and harmonization. Agencies should also seek to identify  
16 appropriate means to achieve regulatory goals that are designed to promote innovation and  
17 enhance West Virginia's competitiveness with surrounding states;

18 (4) Agencies should review their existing legislative and procedural rules to determine  
19 whether any such rules should be modified, streamlined, expanded, or repealed so as to make the  
20 agency's regulatory program more effective or less burdensome in achieving the regulatory  
21 objectives related to coal electric generation and coke production projects. Agencies should also  
22 evaluate the data that they have to determine what information might be useful to prompt  
23 permitting and approval of coal generated electricity; and

24 (5) The West Virginia Department of Economic Development established in §5B-2-1 et  
25 seq. of this code is responsible for implementing this ~~Coal-Fired Grid Stabilization and Security Act~~  
26 ~~of 2023~~ Affordable Electricity and Economic Growth Act of 2026 and provide as much assistance  
27 as possible to grow and sustain the coal electric generation segment of the economy.

28 (b) The Legislature declares that facilitating the development of business activity directly  
29 and indirectly related to coal electric generation development, transportation, storage, and use  
30 serves the public interest of the citizens of this state by promoting economic development, by  
31 improving economic opportunities for the citizens of this state, and providing additional  
32 opportunities to stabilize the price of electricity while increasing its reliability and availability.

33 (c) The Legislature declares that developing the regional steel industry in West Virginia  
34 and neighboring states has a profoundly positive effect on the overall economy of West Virginia,  
35 particularly when such steel is manufactured with metallurgical coal and coke produced within  
36 West Virginia. The Legislature finds that the secondary and tertiary economic benefits to the  
37 citizens and economy of West Virginia from such industrial activities are of inestimable value, and  
38 critical to the continuing viability of our state.

**§5B-2O-3. Identification of suitable sites for coal electric generation projects and coke**  
**production plants.**

1 (a) The Department of Economic Development is ~~authorized and~~ directed to identify  
2 economically viable sites within the state that are, respectively:

3 (1) Located near a convenient and sufficient supply of thermal coal for power generation  
4 and metallurgical coal for producing coking as used in making steel.

5 (2) Located near consumers of electricity to provide a convenient supply of the generated  
6 electricity, or near rail facilities sufficient to transport the coke to steel producing facilities,  
7 respectively; and,

8 (3) Likely to create economically viable coal electric generation projects or coke production  
9 plants that provide economic benefits to the local and state governmental units and the citizens of  
10 the state.

11 (b) The Department of Economic Development shall use the following criteria in identifying  
12 economically viable sites for coal electric generation projects:

13 (1) Geographic locations near coal deposits in the state capable of supplying and  
14 sustaining one or more coal electric generation facilities for the economic life of the facilities;

15 (2) Geographic locations near existing electric transmission infrastructure capable of  
16 transmitting the generated electricity to wholesale markets of electricity by one or more coal  
17 electric generation facilities for the economic life of the facilities;

18 (3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air  
19 Quality of the West Virginia Department of Environmental Protection for one or more coal electric  
20 generation facilities; and

21 (4) Geographic locations that can demonstrate that allowable emission increases from one  
22 or more coal electric generation facilities, in conjunction with all other applicable emission  
23 increases or reductions (including secondary emissions), would not cause or contribute to air  
24 pollution in violation of:

25 (A) Any national or West Virginia Ambient Air Quality Standard in any air quality control  
26 region; or

(B) Any applicable maximum allowable increase over the baseline concentration in any area.

(c) The Department of Economic Development shall use the following criteria in identifying economically viable sites for coke production projects:

(1) Geographic locations near metallurgical coal deposits in the state capable of supplying and sustaining one or more coke production facilities for the economic life of the facilities;

(2) Geographic locations near existing rail infrastructure capable of transporting the produced coke to steel-making facilities for the economic life of the coking facilities;

(3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for coke producing facilities; and

(4) Geographic locations that can demonstrate that allowable emission increases from one or more coke producing facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(A) Any national or West Virginia Ambient Air Quality Standard in any air quality control region; or

(B) Any applicable maximum allowable increase over the baseline concentration in any area.

**§5B-20-4. Designation of sites suitable for coal electric generation projects.**

(a) Following identification of economically viable sites that may be suitable for coal electric generation or coke production projects, the Department of Economic Development shall identify and designate each site it has determined to be suitable for coal electric generation or coke production projects as a "Designated Site," and shall communicate the Designated Sites to the West Virginia Department of Environmental Protection's Division of Air Quality and, in the case of coal electric generation, the West Virginia Public Service Commission as sites suitable for the

7 construction and operation of coal electric generation projects.

8 (b) Any application for a siting certificate pursuant to §24-2-11c of this code filed with the  
9 Public Service Commission for development of a coal electric generation or coke production  
10 project at a Designated Site shall be adjudicated, inclusive of public hearings, and a final order  
11 issued by the Public Service Commission, within 270 calendar days after the date of the filing of  
12 the application, notwithstanding the requirements of any other provision of this code.

13 (c) Nothing in this section is intended to preclude, modify, or establish new Public Service  
14 Commission jurisdiction over:

15 (1) Any exercise of powers, duties, and obligations pursuant to the West Virginia Public  
16 Energy Authority Act; and

17 (2) The right of end-user consumers of electricity to develop, invest in, or otherwise  
18 contract for on-site electric self-generation or cogeneration facilities, including those utilizing coal  
19 as a fuel source.

20 (3) This section does not alter, modify and/or cancel any existing cogeneration tariffs  
21 authorized by the Public Service Commission.

22 (4) This section does not authorize the sale of electricity to end-users in the state.

23 (d) Where a designated site has been identified, in accordance with §22-5-11c of this code,  
24 as a location where additional data would be helpful for modeling or other evaluation of the  
25 potential emission of a coal generation project, the Department of Economic Development shall  
26 construct such facilities as are necessary to acquire such data.

**§5B-20-5. Timeframe and Performance Criteria for Department of Economic Development.**

1 (a) Department of Economic Development shall issue a preliminary report to the Joint  
2 Committee on Energy and Manufacturing no later than December 31, 2026, outlining a minimum  
3 of one prospective location under consideration each for coal electrical generation and coke  
4 production, respectively.

5 (b) Department of Economic Development shall identify and designate at least one site

6 each pursuant to code section §5B-2O-4 for coal electric generation and coke production,  
7 respectively, and issue a report to the Joint Committee on Energy and Manufacturing no later than  
8 December 31, 2027.

9 (c) Department of Economic Development shall identify and designate at least one  
10 additional coal electric generation site and one coke production site per three-year period for the  
11 subsequent 12 years following 2027 calendar year. No more than 60% of the total sites designated  
12 for each use, coal electric generation or coke production, shall fall on the same side of I-64.

NOTE: The purpose of this bill is to establish the Affordable Electricity and Economic Growth Act of 2026 to facilitate coke production and steel-making in the state.

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