

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4991**

**FISCAL  
NOTE**

By Delegates Brooks, Vance, Martin, and B. Smith

[Introduced January 30, 2026; referred to the  
Committee on Energy and Public Works]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,  
2 designated §24-9-1, §24-9-2, §24-9-3, §24-9-4, §24-9-5, §24-9-6, §24-9-7, §24-9-8, §24-  
3 9-9, and §24-9-10, relating to the Public Service Commission and dispatchable in-state  
4 electric generation; providing legislative findings and purpose, and title; establishing the  
5 West Virginia First Energy Act; provides definitions; requiring minimum utilization of coal-  
6 fired electric generating facilities; requiring minimum on-site coal inventory and firm natural  
7 gas supply; requiring oversight of PJM market participation and resource planning;  
8 restricting cost recovery and power-purchase agreements for new intermittent generation;  
9 conditioning rate increases on compliance; coordinating with the Electric Grid Stabilization  
10 and Security Fund; requiring reporting; granting implementation authority; and providing  
11 an effective date.

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

## **ARTICLE 9. WEST VIRGINIA FIRST ENERGY ACT.**

### **§24-9-1 Legislative findings and purpose.**

1 (a) The Legislature makes the following findings:

2 (1) Coal-fired and natural-gas-fired electric generation are essential to West Virginia's  
3 reliability, affordability, and energy security;

4 (2) For decades, West Virginia maintained some of the most stable electric rates in the  
5 nation due to the consistent use of in-state coal generation;

6 (3) As the utilization of coal-fired generation has declined and greater dependence has  
7 developed on out-of-state and intermittent sources, West Virginia's electric rates have become  
8 increasingly volatile, threatening both affordability and reliability;

9 (4) President Donald J. Trump issued Executive Orders No. 14156 and 14154, declaring a  
10 National Energy Emergency and directing the federal government to unleash American energy  
11 production and pledged to reverse federal initiatives and regulations that undermine domestic  
12 fossil energy, including coal, and to restore policies that support affordable, reliable energy

13 production for American families and industry; and

14 (5) President Trump's National Energy Emergency directives recognize coal, natural gas,  
15 and other domestic fossil energy resources as central to national security, grid reliability, and  
16 economic competitiveness; and that West Virginia's abundant coal and natural-gas resources  
17 provide the foundation of dispatchable generation needed to maintain year-round reliability,  
18 economic competitiveness, and protection from external market disruptions.

19 (b) The purpose of this article is to:

20 (1) Restore electric-rate stability through the continued utilization of in-state coal  
21 generation;

22 (2) Preserve employment and investment in West Virginia's coal and natural-gas  
23 industries; and

24 (3) Coordinate with the Electric Grid Stabilization and Security Fund to sustain dependable  
25 baseload and mid-load generation capacity statewide.

26 (c) This act shall be known and cited as the "West Virginia First Energy Act."

**§24-9-2. Minimum operational utilization requirement for coal-fired generation.**

1 (a) Each regulated coal-fired electric generating facility located in West Virginia that  
2 supplies regulated utilities shall maintain a minimum 69% utilization rate, measured on a 12-month  
3 rolling average.

4 (b) This utilization standard does not apply to natural-gas-fired generation, which serves as  
5 a load-following and reliability-balancing resource within the state's dispatchable fleet.

6 (c) Monthly utilization data for coal-fired facilities shall be reported to the Public Service  
7 Commission in a manner prescribed by rule or order.

8 (d) Failure to maintain the minimum utilization level constitutes noncompliance with this  
9 article.

**§24-9-3. Minimum on-site fuel-supply requirement.**

1 (a) Each regulated coal-fired generating facility shall maintain a minimum 30-day on-site

coal inventory, based on its prior 12-month rolling average burn rate.

(b) Each regulated natural-gas-fired generating facility shall maintain firm pipeline transportation and/or fuel-supply contracts, including access to pipeline storage or equivalent reliability arrangements, sufficient to assure delivery during peak-demand conditions, as determined by the Public Service Commission.

(c) The Commission may grant temporary waivers only for force-majeure conditions and only to the extent necessary to restore compliance.

**§24-9-4. Protection against premature retirement.**

(a) No utility may retire, deactivate, or otherwise reduce the capacity of any coal- or natural-gas-fired generating facility without prior approval of the Public Service Commission.

(b) The Commission shall approve such action only if it finds that the change:

(1) Will not increase retail rates;

(2) Will not increase exposure to wholesale-market volatility;

(3) Will not reduce grid reliability or resource adequacy; and

(4) An in-state, dispatchable, non-intermittent replacement resource of equal or greater capacity is already operational and available on the West Virginia grid at the time of the proposed retirement or reduction.

(c) For purposes of subdivision (b)(4), "dispatchable, non-intermittent replacement resource" means a coal-fired or natural-gas-fired generating unit physically located in West Virginia, capable of continuous operation regardless of weather conditions or time of day.

(d) Unauthorized retirement or reduction constitutes a violation enforceable by the Public Service Commission.

**§24-9-5. Restrictions on intermittent-resource investment.**

(a) No utility regulated by the Public Service Commission may include in rate base, seek regulated rate of return on, or obtain cost recovery for any capital expenditure associated with the construction, acquisition, expansion, or repowering of any new intermittent-generation resource,

4 including wind or solar.

5 (b) Any utility not in compliance with §24-9-2 or §24-9-3 of this code is prohibited from  
6 entering into power-purchase agreements for any new intermittent-generation resources,  
7 including wind or solar.

8 (c) The Public Service Commission shall not approve cost recovery for intermittent  
9 generation unless the utility demonstrates that such investment:

10 (1) Does not increase retail rates;

11 (2) Does not increase reliance on PJM wholesale markets; and

12 (3) Does not reduce seasonal reliability.

13 (d) The burden of proof rests solely on the utility.

**§24-9-6. Rate increases contingent on compliance.**

1 (a) The Public Service Commission shall not approve or consider any rate increase unless  
2 the utility has been in full compliance with §24-9-2 and §24-9-3 of this code for the preceding 12-  
3 months.

4 (b) Intentional failure to meet the utilization requirement for market gain is grounds for  
5 penalty and automatic denial of the request.

**§24-9-7. Electric grid stabilization and security fund coordination.**

1 (a) Notwithstanding any provision of this code to the contrary, monies from the Electric Grid  
2 Stabilization and Security Fund, created in §5B-2N-1 et seq. of this code, shall be used to stabilize  
3 generation costs, support life-extension projects, fuel-security infrastructure, and grid-balancing  
4 measures, but may not be used for decommissioning or closure of operating units.

5 (b) Projects utilizing West Virginia-produced natural gas for firm capacity, peaking, or  
6 reliability services are eligible for support.

**§24-9-8. Oversight of PJM market participation and resource planning.**

1 (a) The Public Service Commission shall evaluate each PJM capacity auction and ensure  
2 West Virginia generating units participate to maximize ratepayer benefit and limit exposure to

3 market volatility. To the extent allowable by PJM market rules, any generating unit located in West  
4 Virginia with a capacity factor greater than 80% as listed by PJM on the date of enactment shall be  
5 designated an essential reliability resource for purposes of state oversight and participation.

6 (b) Each regulated utility shall include coal and natural-gas utilization, maintenance, and  
7 life-extension analysis in its Integrated Resource Plan.

8 (c) The Commission shall adopt rules or orders to implement this section and ensure  
9 alignment with state reliability and affordability goals.

**§24-9-9. Reporting and accountability.**

1 (a) Utilities subject to this article shall annually report to the Public Service Commission  
2 and the Department of Commerce the tons of West Virginia coal purchased and the volume of  
3 West Virginia-produced natural gas utilized.

4 (b) The Commission shall coordinate with each utility and the Department of Commerce  
5 and may require the submission of any documents, records, or data necessary to effectuate  
6 accurate calculation and reporting under this section.

7 (c) The Department of Commerce shall determine the number of jobs supported, the  
8 economic benefits derived from compliance, and any other workforce or economic-impact metrics  
9 needed to carry out the purposes of this article.

**§24-9-10. Implementation; effective date.**

1 (a) The Public Service Commission shall issue such general orders, directives, and  
2 requirements as are necessary to implement and enforce the provisions of this article. The  
3 Commission may require the filing of data, reports, plans, or other information necessary to ensure  
4 compliance.

5 (b) This article shall take effect July 1, 2026.

NOTE: The purpose of this bill is to restore electric-rate stability through the continued utilization of in-state coal generation; preserve employment and investment in West Virginia's coal and natural-gas industries; and coordinate with the Electric Grid Stabilization and Security Fund to sustain dependable baseload and mid-load generation capacity statewide.

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