WEST VIRGINIA CODE CHAPTER 29 ARTICLE 1E

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§29-1E-1. Definitions.

As used in this article, unless the context requires otherwise:

(1) "Compact" means the southern states energy compact;

(2) "Board" means the southern states energy board.

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§29-1E-2. Enactment of compact.

The southern states energy compact is hereby enacted into law and entered into by the State of West Virginia with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

SOUTHERN STATES ENERGY COMPACT

Article I. Policy and Purpose

The party states recognize that the proper employment and conservation of energy, and employment of energy-related facilities, materials, and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the south and the development of a balanced economy for the region. They also recognize the optimum benefit from and acquisition of energy resources and facilities requires systematic encouragement, guidance, and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the south and contribute to the individual and community well-being of the region's people.

Article II. The Board

(a) There is hereby created an agency of the party states to be known as the "southern states energy board" (hereinafter called the board). The board shall be composed of three members from each party state, one of whom shall be appointed or designated in each state to represent the Governor, the state Senate, and the state House of Delegates, respectively. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for representation.

(b) Each party state shall be entitled to one vote on the board to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the board shall be binding unless taken at a meeting at which a majority of all party states are represented and unless a majority of the total number of votes on the board are cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The board shall appoint an executive director who shall serve at its pleasure

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and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the Governor of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the Legislature of said state. The board may issue such additional reports as it may deem desirable.

Article III. Finances

(a) The board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the

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laws of that jurisdiction for presentation to the Legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One half of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one quarter of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one quarter of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective Legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under article two (h) of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under article two (h) hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspections.

Article IV. Advisory Committees

The board may establish such advisory and technical committees as it may deem necessary, membership on which to include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

The board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the south with respect to

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energy, energy-related industries and environmental concerns.

(b) Encourage the development, conservation and responsible use of energy and energy-related facilities, installations, and products as part of a balanced economy and healthy environment.

(c) Collect, correlate, and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Energy, environment, and applications of energy, environmental, and related concerns to industry, medicine, or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of energy and energy-related materials, products, installations or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material, or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(f) Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to energy and environmental fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstance which may justify variations to meet local conditions.

(i) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the United States department of energy or any agency successor thereto, any other officer or agency of the United States and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(k) Act as licensee of the United States government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or

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undertake any program pursuant thereto.

(1) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the nuclear, environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Article VI. Supplementary Agreements

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of article five of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation of duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

Article VII. Other Laws and Relationships

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

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(b) Limit, diminish, or otherwise impair jurisdiction exercised by the United States department of energy, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the board own or operate any facility or installation for industrial or commercial purposes.

Article VIII. Eligible Parties, Entry Into Force and Withdrawal

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the Commonwealth of Puerto Rico and the United States Virgin Islands shall be eligible to become party to this compact.

(b) As to any eligible party state this compact shall become effective when its Legislature shall have enacted the same into law: Provided, That it shall not become initially effective until enacted into law by seven states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the Governor of the withdrawing state shall have sent formal notice in writing to the Governor of each other party state informing said Governors of the action of the Legislature in repealing the compact and declaring an intention to withdraw.

Article IX. Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

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§29-1E-3. Membership of board.

The Governor shall appoint one of this state's three board members of the southern states energy board which is established by article two of the compact. Such member shall serve at the pleasure of the Governor. The President of the Senate and the Speaker of the House of Delegates shall each appoint one member of their respective houses, to serve at their pleasure, as board members of the southern states energy board. The president, the speaker and the Governor are each hereby authorized to appoint an alternate member who may serve at and for such time as the regular member shall designate and shall have the same power and authority as the regular member when so serving.

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§29-1E-4. Employees of board.

The employees of the board shall be under such merit system as the board shall provide and, for the purposes of carrying out the provisions of article two (f), the board and its employees shall be considered a state agency, and the state employees' retirement system is hereby authorized to contract with the board in order to further or facilitate the activities of the board pursuant to article two (f) of the compact. No such contract shall take effect prior to its approval by the Governor.

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§29-1E-5. Duties of members of board.

(a) The members of the board appointed and serving in accordance with section two of this article shall assist in the coordination of atomic and other energy-related activities within this state.

(b) The board members are hereby authorized and empowered to assist in the orderly development of atomic and other energy-related knowledge within the State of West Virginia.

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§29-1E-6. Supplementary agreements.

Any supplementary agreement entered into under article six of the compact requiring the expenditure of funds shall not become effective as to the state until the required funds are appropriated by the Legislature.

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§29-1E-7. Cooperation of state agencies, boards, departments, etc.

The departments, boards, agencies, commissions, officers and employees of the state and its subdivisions are authorized to cooperate with the board in the furtherance of any of its activities pursuant to this compact.

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§29-1E-8. Appropriations.

The Legislature may appropriate such funds as it deems necessary to carry out the provisions of this chapter, article, and sections.

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§29-1E-9. Severability clause.

If for any reason any section or provision of this article shall be held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remainder of this article.

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§29-1E-10. Effective date of amendments to compact; prior compact to continue in force.

The amendatory provisions to section two of this article enacted in the year one thousand nine hundred seventy-nine shall become effective at such time as nine of the eligible party states to the southern interstate nuclear compact, which may include the Commonwealth of Puerto Rico, and the United States Virgin Islands, approve substantially the same changes in the compact as are provided for in section two of this article and the Congress of the United States consents to the compact, substantially as amended by section two of this article; until such time, this state shall continue to remain a member of the southern interstate nuclear compact as set forth in chapter three, acts of the Legislature, one thousand nine hundred sixty-four.

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