WEST VIRGINIA CODE: §5B-2-21B

§5B-2-21b. Authority to assist certified microgrid district projects and certified high impact data center projects; legislative findings.

(a) Findings and purpose. — The Legislature hereby finds and declares the following:

(1) The findings and purpose set forth in §5B-2-21a(a) (2025), except to the extent expressly modified herein, are hereby incorporated herein by reference with the same force and effect as though fully set forth herein.

(2) It is in the best interests of the state to induce and assist in development of these projects, in order to advance the public purposes of relieving unemployment by preserving and creating jobs, and preserving and creating new and greater sources of revenue for the support of public services provided by the state and local government.

(3) It is the intent of the Legislature to occupy the whole field of the creation and regulation of certified microgrid districts and certified high impact data centers. The stated purpose of this section is to promote uniform and consistent application of the act within the state.

(b) The Department of Commerce shall assist projects developing or operating a certified microgrid district pursuant to §5B-2-21 of this code or a certified high impact data center pursuant to §5B-2-21a of this code. The Secretary of Commerce shall designate one of their personnel as "Data Economy Liaison" to serve as a single point-of-contact for certified microgrid districts and high impact data centers to assist coordinate and expedite their development and operation, including, but not limited to site selection and permitting. A "certified microgrid district" is a microgrid project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21 of this code. A "certified high impact data center" is a data center project, regardless of stage of development or operation, that has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21a of this code.

(c) This section prohibits:

(1) Counties and municipalities, whether by ordinance, resolution, administrative act, or otherwise, from enacting, adopting, implementing, or enforcing ordinances, regulations, or rules which limit, in any way, the creation of, and acquisition, construction, equipping, development, expansion, and operation of any certified microgrid district or certified high impact data center project; and

(2) Counties and municipalities from imposing or enforcing local laws and ordinances concerning the creation or regulation of any certified microgrid district or certified high impact data center therein.

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(d) In accordance with §5B-2-21(b) and §5B-2-21(c) of this code, and notwithstanding any provision of this code to the contrary, or any municipality's home rule powers with respect to ordinances and ordinance procedures, including any authority pursuant to the Municipal Home Rule Program under §8-1-5a of this code, certified microgrid districts and certified high impact data centers may not be subject to the following:

(1) County or municipal zoning, horticultural, noise, viewshed, lighting, development, or land use ordinances, restrictions, limitations, or approvals;

(2) County or municipal building permitting, inspection, or code enforcement;

(3) County or municipal license requirements;

(4) The legal jurisdiction of the county or municipality in which the certified microgrid district or certified high impact data center is entirely or partially located, except as specifically provided in this article;

(5) Any requirement under state law for the consent or approval of the municipality in which a certified microgrid district or certified high impact data center is entirely or partially located of any state or county action pursuant to this code, specifically including, but not limited to, §7-11B-1 *et seq*. of this code, for formal consent of the governing body of a municipality for county or state action regarding the establishment of tax increment financing development or redevelopment districts or the approval of tax increment financing development or redevelopment plans.

(e) Notwithstanding the creation of a certified microgrid district or a certified high impact data center, the owner, operator, or manager, as applicable, and all tenants, lessees or licensees thereof, of a certified microgrid district or a certified high impact data center shall:

(1) Pay business and occupation tax, if applicable, pursuant to §8-13-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(2) Collect and remit municipal sales and service tax and municipal use tax, if applicable, pursuant to §8-1-5a, §8-13C-4, and §8-13C-5 of this code, to the municipality in the same manner as any other business or commercial venture located within the municipality;

(3) Pay ad valorem real and personal property tax pursuant to the same millage rates as any other business or commercial venture located within the county and municipality;

(4) Pay all municipal and county service fees enacted pursuant to §8-13-13, §7-15-17, and §7-17-12 of this code, including, but not limited to, fire, ambulance, police, sanitation, or city service fees: Provided, That in no event shall any owner, operator, or manager, as applicable, and all tenants, lessees or licensees thereof, of a certified microgrid district or a certified high impact data center be required to pay both county and municipal fees for fire protection.

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(5) Pay all utility rates, fees, and charges for utilities used or consumed during construction and operation of premises within the certified microgrid district or certified high impact data center, including, but not limited to, water, sewer, stormwater, and garbage and recycling collection: Provided, That (A) The rates, fees, and charges for such services shall be based on the cost of providing such service and the utility shall enter into a contract under the rules of the Public Service Commission for each such service with the developer and file the special contract with the Public Service Commission; and (B) the developer shall only be required to pay any capacity improvement fee or impact fee to the extent that capital additions, betterments, and improvements must be designed, acquired, constructed, and equipped by the utility to provide such service to the project; Utility customers outside of the microgrid district shall not bear any construction or operational costs associated with any new utility property built solely to provide service within a microgrid district;

(6) Be entitled to police protection and fire protection, if available, in the same manner as any other business or commercial venture located within the county or municipality; and

(7) Design, acquire, construct, and equip the certified microgrid district or certified data center pursuant to the State Building Code in accordance with §8-12-13 of this code and the corresponding State Rule 87 CSR 4.

(f) The Department of Commerce, Department of Environmental Protection, and Department of Transportation may take actions necessary in support of the development of any certified microgrid district or certified data center, including, but not limited to, the development or improvement of such highways, roads, thoroughfares, and sidewalks within any county or municipality in which the certified microgrid district or certified data center is partially or entirely located.

(g) In order to effectuate the purposes of this section, the Department of Commerce, or any agency, division, or subdivision thereof, may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq*. of this code.

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