
WEST VIRGINIA CODE CHAPTER 5b
ARTICLE 2F

WV Legislature

§5B-2F-1. Short title.

This chapter shall be known and cited as the West Virginia Energy Policy and Development Act.

WV Legislature

§5B-2F-2. Purpose; Office of Energy; office to develop energy policy and development plan; contents of energy policy and development plan; and office to promote energy initiatives.

(a) Effective July 1, 2017, the Division of Energy is hereby continued, but shall be designated and known as the Office of Energy and shall be organized within the Department of Economic Development. All references throughout this code to the Division of Energy shall be construed to refer to the Office of Energy. The office may receive federal funds.

(b) The office is intended to provide leadership for developing energy policies emphasizing the increased efficiency of energy use, the increased development and production of new and existing domestic energy sources, the increased awareness of energy use on the environment and the economy, dependable, efficient and economical statewide energy systems capable of supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased, reduce the ratio energy consumption to economic activity and maintain low-cost energy. The energy policies and development plans shall also provide direction for the private sector.

(c) The office shall have authority over the energy efficiency program existing under the Department of Economic Development.

(d) The office shall develop an energy policy and shall report the same back to the Governor and the Joint Committee on Government and Finance before December 1, 2007. The energy policy shall be a five-year plan setting forth the state's energy policies and shall provide a direction for the private sector. Prior to the expiration of the energy policy, the office shall begin review of the policy and submit a revised energy policy to the Governor and the Joint Committee on Government and Finance six months before the expiration of the policy.

(e) The office shall prepare and submit an annual energy development plan to the Governor and the Joint Committee on Government and Finance on or before December 1 of each year. The development plan shall relate to the office's implementation of the energy policy and the activities of the office during the previous year. The development plan shall include any recommended legislation. The Public Energy Authority, the Office of Coalfield Community Development, the energy efficiency program, the Department of Environmental Protection and the Public Service Commission, in addition to their other duties prescribed by this code, shall assist the office in the development of an energy policy and related development plans. The energy development plan shall set forth the plans for implementing the state's energy policy and shall provide a direction for the private sector. The energy development plan shall recognize the powers of the Public Energy Authority as to development and financing of projects under its jurisdiction and shall make such recommendations as are reasonable and practicable for the exercise of such powers.

(f) The office shall hold public hearings and meetings with notice to receive public input regarding proposed energy policies and development plans. The energy policy and development plans required by subsections (d) and (e) of this section shall address increased

efficiency of energy use, traditional and alternative energy, water as a resource and a component of energy production, energy distribution systems, the siting of energy facilities, the increased development and production of new and existing domestic energy sources, increased awareness of energy use on the environment and the economy, energy infrastructure, the development and implementation of renewable, clean, technically innovative and advanced energy projects in this state. Projects may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal mine methane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal liquefaction technologies.

(g) The office may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code designed to implement an energy policy and development plan in accordance with the provisions of this chapter.

(h) The energy policy and development plans required by subsections (d) and (e) of this section shall identify and report on the energy infrastructure in this state and include without limitation energy infrastructure related to protecting the state's essential data, information systems and critical government services in times of emergency, inoperativeness or disaster. In consultation with the Director of the Division of Homeland Security and Emergency Management, the office shall encourage the development of energy infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster.

(i) In preparing or revising the energy policy and development plan, the office may rely upon internal staff reports or the advice of outside advisors or consultants and may procure such services with the consent of the Secretary of Economic Development. The office may also involve national, state and local government leadership and energy experts.

(j) The office shall prepare an energy use database, including without limitation, end-use applications and infrastructure needs for different classes of energy users including residential, commercial and industrial users, data regarding the interdependencies and sources of electricity, oil, coal, water and gas infrastructure, data regarding energy use of schools and state-owned facilities and collect data on the impact of the energy policy and development plan on the decisions and strategies of energy users of the state.

(k) The office shall promote collaboration between the state's universities and colleges, private industry and nonprofit organizations to encourage energy research and leverage available federal energy research and development resources.

(l) The office shall promote initiatives to enhance the nation's energy security through research and development directed at transforming the state's energy resources into the resources that fuel the nation.

(m) The office shall work with the President of the United States and his or her

administration to develop a plan that would allow West Virginia to become the leader in transitioning the United States to a new energy future.

(n) The office is to determine the best way for West Virginia to utilize its resources and any federal funding to develop the technologies that are necessary for such a transition.

(o) The office is to clearly articulate West Virginia's position on an energy solution for the United States that encompasses clean coal, natural gas, transtech energy technologies and renewable energy technologies.

(p) The office shall develop and distribute an informational program and policies that emphasize the importance of West Virginia energy resources and their positive impact on the eastern seaboard and the nation.

(q) The office shall monitor legal challenges to the energy industries in the state and submit a report quarterly to the Joint Committee on Government and Finance. The report shall contain information relating to any litigation that challenges any statute that could affect the production, distribution and utilization of natural resources of the state.

(r) The office shall develop and administer a program for auditing the energy metering devices for both electricity and natural gas currently installed at state buildings for purposes of determining whether such devices are active or inactive. Such program shall be designed to audit no fewer than 20 percent (20%) of the energy metering devices each year to enable completion of the audit of all such devices no later than January 1, 2027. In the event the office determines during such audit that an energy metering device is no longer active, it shall notify the energy service provider to request (1) removal of such device and (2) adjustment of utility bills prospectively to remove any charge associated with such meter.

§5B-2F-3. Energy Savings Contracting Program.

The secretary shall, working with such other agencies of the state as the secretary deems appropriate, establish an energy savings contracting program to support the design and installation of energy-savings contracts that may be entered into by agencies of the state under §5A-3B-1 *et seq.* of the code. Such program shall include the development and provision of model, template, or standardized contracts, guidelines, procedures, manuals, and other related documents regarding the use of energy-savings contracts.

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§5B-2F-4. Energy savings program.

(a) No later than October 1, 2021, the secretary shall establish an energy savings program designed to reduce energy usage for electricity, natural gas, fuel oil, and steam in all state buildings under the care, custody, and control of the state by 25% below 2018 levels by 2030. The secretary shall report annually to the Legislature regarding the energy-conservation measures, as defined by §5A-3B-1(b) of this code, installed under the energy savings program, achieved reductions in energy usage, and additional energy-conservation measures, if any, necessary to achieve the required reductions by 2030. The secretary is authorized to enter into energy-savings contracts as defined in §5A-3B-1 *et seq.* of this code, as necessary, to implement the energy savings program. Energy-savings contracts entered into as part of the energy savings program shall require an annual energy audit performed by a third party and at the cost of the qualified provider. Energy audits shall include (1) A comparative analysis of anticipated to actual energy savings; and (2) the terms and conditions of agency payment and performance guarantees. Any such performance guarantees shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software.

(b) The department will collaborate with the Department of Administration to develop energy saving strategies and improve energy efficiency in state buildings under the control and care of the Department of Administration.

§5B-2F-5. Disclosure of energy usage.

No later than July 1, 2021, the secretary shall establish a program for measuring and benchmarking the energy, including electricity, natural gas, fuel oil, and steam, efficiency of all state buildings under custody and control of the state. Such program shall use the benchmarking tool Energy Star Portfolio Manager® operated by the United States Environmental Protection Agency. No later than October 1, 2021 and each year thereafter, the secretary shall compile and submit energy usage data for all state buildings to such benchmarking tool. The secretary shall report annually to the Legislature regarding the building energy performance compared to similar buildings in similar climates, as determined by the Energy Star Portfolio Manager®.