WEST VIRGINIA CODE CHAPTER 5b ARTICLE 2N

WV Legislature

§5B-2N-1. Short title.

This article shall be known and cited as the Comprehensive Grid Stabilization and Energy Security Act of 2026.

WV Legislature

§5B-2N-1a. Definitions.

For the purpose of this article:

"Company" means a for-profit sole proprietorship, organization, association, corporation, limited liability partnership, limited liability company, including a wholly owned subsidiary, majority owned subsidiary, parent company, or affiliate of those entities or business associations that exist to make a profit.

"Critical Energy Infrastructure" means a communication infrastructure system, cybersecurity system, electric grid, hazardous waste treatment system or water treatment facility that directly or indirectly affects the ability to generate, transmit, transport or distribute electricity, coal, oil and natural gas, or hydrogen within the state.

"Cybersecurity means the measure taken to protect a computer, computer network, computer system or other technology infrastructure against unauthorized use or access.

"Director" means the Director of the West Virginia Office of Energy.

"Office" means the West Virginia Office of Energy.

WV Legislature

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

(a) The Legislature finds that:

(1) The advent and advancement of new and existing technologies and practices have created the opportunity for efficient use of coal, geothermal, hydrogen, hydropower, natural gas, and nuclear in West Virginia, including opportunities for the production of electricity;

(2) Production of electricity utilizing coal, geothermal, hydrogen, hydropower, natural gas, and nuclear produced in West Virginia is highly underdeveloped in comparison to nearby states with which West Virginia competes for economically beneficial projects. Coal, geothermal, hydrogen, hydropower, natural gas, and nuclear electric generation projects have been undermined by existing regulatory requirements and related time delays;

(3) In developing regulatory actions and identifying appropriate approaches to encourage development of coal, geothermal, hydrogen, hydropower, natural gas, and nuclear electric generation projects, agencies should attempt to promote coordination, simplification, and harmonization. Agencies should also seek to identify appropriate means to achieve regulatory goals that are designed to promote innovation and enhance West Virginia's competitiveness with surrounding states;

(4) Agencies should review their existing legislative and procedural rules to determine whether any such rules should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives related to coal, geothermal, hydrogen, hydropower, natural gas, and nuclear electric generation projects. Agencies should also evaluate the data that they have to determine what information might be useful to prompt permitting and approving coal, geothermal, hydrogen, hydropower, natural gas, and nuclear generated electricity; and

(5) The Office of Energy is responsible for implementing this Grid Stabilization and Security Act of 2026 and providing as much assistance as possible to grow and sustain the coal, geothermal, hydrogen, hydropower, natural gas, and nuclear electric generation segment of the economy.

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

WV Legislature

§5B-2N-2a. Creating the Electric Grid Stabilization and Security Fund.

(a) The Electric Grid Stabilization and Security Fund is hereby created. The fund shall be administered by the Department of Commerce and shall consist of all moneys made available for the purposes and from the sources set forth in this section of the code.

(b) The fund consists of moneys received from the following sources:

(1) All moneys received pursuant to §11-6N-4(b)(4)(C) of this code;

(2) All appropriations provided by the Legislature;

(3) Any moneys available from external sources; and

(4) All interest and other income earned from investment of moneys in the fund.

(c) The Department of Commerce shall use moneys in the fund to provide support for electric grid stabilization for regulated utilities and grid security, including development, efficiency, and environmental upgrades, but not decommissioning and replacement of existing facilities; maintenance of utility owned and operated coal and natural gas electric generation, regardless of unit or plant ownership by different regulatory jurisdictions; and transmission resources which solely serve West Virginia rate payers.

(d) Any balance, including accrued interest and any other returns, in the Electric Grid Stabilization and Security Fund at the end of each fiscal year may not expire to the General Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

(e) Fund balances may be invested with the state's Consolidated Investment Fund. Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this code.

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

WV Legislature

§5B-2N-2b. Strategy for Developing Coal, Geothermal, Hydrogen, Hydropower, Natural Gas, and Nuclear Energy.

(a) The Office of Energy shall develop a recommended strategy to the Governor and Secretary of Commerce for developing coal, geothermal, hydrogen, hydropower, natural gas, and nuclear fueled energy in West Virginia's economy and energy infrastructure.

(b) Such strategy shall include, without limitation:

(1) A review of regulations and legislation needed to guide the development and achievement of economies of scale for the energy ecosystem in the state;

(2) Recommendations for post-secondary education or workforce initiatives to prepare the state's workforce for coal, geothermal, hydrogen, hydropower, natural gas, and nuclear fueled energy-related jobs;

(3) Recommendations, legislation, and policies to support coal, geothermal, hydrogen, hydropower, natural gas, and nuclear fueled energy facilities at sites throughout West Virginia;

(4) Recommendations regarding funding sources for developing coal, geothermal, hydrogen, hydropower, natural gas, and nuclear fueled energy programs and infrastructure; and

(5) Recommendations for potential end uses of coal, geothermal, hydrogen, hydropower, natural gas, and nuclear fueled energy.

WV Legislature

§5B-2N-3. Identification of suitable sites for coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation projects.

(a) The Director of the Office of Energy is authorized and directed to identify economically viable sites within the state that are:

(1) Located near a convenient and sufficient supply of coal, geothermal, hydrogen, hydropower, natural gas, or nuclear energy; and

(2) Likely to create economically viable coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state; and

(3) Optimally located to provide a convenient supply of the generated electricity to consumers; and

(b) The Director of the Office of Energy shall use the following criteria in identifying economically viable sites for electric generation projects:

(1) Geographic locations near coal deposits, geothermal resources, hydrogen projects, hydropower resources, producing natural gas wells, or pipelines carrying natural gas or hydrogen produced in the state, or nuclear electric generation facilities, capable of supplying and sustaining one or more electric generation facilities for the economic life of the facilities;

(2) Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets by one or more coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation facilities for the economic life of the 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 the electric generation facilities; and

(4) Geographic locations that can demonstrate that allowable emission increases from one or more generation 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.

WV Legislature

§5B-2N-4. Designation of sites suitable for electric generation projects.

(a) Following identification of economically viable sites that may be suitable for electric generation projects, the Director of the Office of Energy shall identify and designate each site it has determined to be suitable for coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation 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 the West Virginia Public Service Commission as sites suitable for the construction and operation of coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of this code filed with the Public Service Commission to construct or to construct and operate a coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation project at a designated site shall be adjudicated, inclusive of public hearings, and a final order issued by the Public Service Commission, within 270 calendar days after the date of the filing of the application, notwithstanding the requirements of any other provision of this code.

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

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

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

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

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

(d) Where a designated site has been identified, in accordance with §22-5-11b(b) of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation project, the Office of Energy may consult with or retain such experts as are necessary to acquire such data.

WV Legislature

§5B-2N-4a. Energy-Ready Community Designation; Criteria; Application Process; Award Process.

(a) The Office of Energy shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to establish a procedure and criteria for awarding a coal, geothermal, hydrogen, hydropower, natural gas, or nuclear-ready community designation to demonstrate a community's voluntary readiness to welcome electric generation-related development. The procedure and criteria to attain the designation shall include:

(1) The holding of local public educational meetings, by a county or municipality, to educate the community on coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation technologies, the related ecosystem, and the role that energy-related development could play in the community;

(2) The availability of at least one site within the community that has been designated by the Office of Energy as a "Designated Site" suitable for a coal, geothermal, hydrogen, hydropower, natural gas, or nuclear electric generation project; and

(3) The adoption of resolutions from the county or the municipalities within the designation area requesting a designation of the community's readiness for energy-related projects to be developed and sited there.

(b) Communities may voluntarily apply to the Office of Energy for an energy-ready community designation in the form and manner as the office may require, and the office shall evaluate the application and award the designation based on the criteria established under subsection (a) of this section.

WV Legislature

§5B-2N-5. Development of State Energy Security Plan.

(a) The Office of Energy shall develop a State Energy Security Plan and shall submit a report of its plan to the Governor and the Joint Committee on Government and Finance before on or before December 1, 2026, and every five years thereafter. The State Security Energy Plan shall at a minimum:

(1) Provide a state energy profile, including an assessment of energy production, transmission, distribution and end-use;

(2) Identify all energy sources and regulated and unregulated energy providers;

(3) Address potential hazards to each energy sector or system, including physical threats, cybersecurity threats and vulnerabilities;

(4) Provide a risk assessment of energy infrastructure and cross-sector interdependencies;

(5) Provide a risk-mitigation approach to enhance reliability and end-use resilience;

(6) Identify existing legislation and institutions responsible for energy security in West Virginia, including federal and state agencies and emergency response procedures;

(7) Address coordination between state agencies, local governments and energy providers; and

(8) Describe response processes and responsible authorities for energy emergencies.

(b) Nothing in this section is intended to preclude, modify or interfere with other state agencies in the performance of their duties and obligations during an energy emergency.

(c) Any plan and any information obtained or developed by the Office of Energy pursuant to this section shall be kept confidential and exempt from disclosure under the Freedom of Information Act under §29B-1-1 *et seq.*, of this code.

WV Legislature

§5B-2N-6. Biennial Energy Emergency Exercise.

(a) The Office of Energy shall conduct an energy emergency exercise by no later than July 1, 2027. It shall conduct additional energy emergency exercises every two years thereafter. The office shall invite representatives from the following entities to participate in the energy emergency exercise and shall provide said representatives with at least 30-days advance written notice of the energy emergency exercise:

(1) All electric utilities regulated by the West Virginia Public Service Commission;

(2) West Virginia Public Service Commission;

(3) West Virginia Office of Technology;

(4) West Virginia Governor's Office;

(5) West Virginia Legislature;

(6) West Virginia Fusion Center;

(7) West Virginia Department of Homeland Security;

(8) West Virginia Emergency Management Division;

(9) West Virginia National Guard;

(10) West Virginia Department of Transportation;

(11) West Virginia Department of Environmental Protection;

(12) Federal Emergency Management Administration;

(13) United States Department of Energy, Office of Cybersecurity, Energy Security and Emergency Response;

(14) United States Department of Homeland Security;

(15) United States Cybersecurity and Infrastructure Security Agency;

(16) West Virginia University; and

(17) Marshall University.

(b) The Office of Energy shall conduct the energy emergency exercise so as to allow the various participating state and federal agencies and other entities to access their energy emergency preparedness in a risk-free environment.

WV Legislature

(c) Within 30 days of completing the energy emergency exercise, the office shall provide a strictly confidential report to the Governor and the Joint Committee on Government and Finance. The report shall:

(1) Address whether the State Energy Security Plan properly delineates the roles and responsibilities of the various entities participating in the exercise and provide recommendations for improving the State Energy Security Plan; and

(2) Recommend improvements in the communication protocols among state agencies, the federal government, the private sector, other participating entities and the public.

(d) Any plan and any information obtained or developed by the Office of Energy pursuant to this section shall be kept confidential and exempt from disclosure under the Freedom of Information Act under §29B-1-1 *et seq.*, of this code.

WV Legislature