
WEST VIRGINIA CODE CHAPTER 5b
ARTICLE 20

WV Legislature

§5B-20-1. Short title.

This article shall be known and cited as the "Coal Fired Grid Stabilization and Security Act."

WV Legislature

§5B-20-2. Legislative findings; declaration of public policy.

(a) The Legislature finds that:

(1) The advent and advancement of new and existing technologies and mining/drilling practices have created the opportunity for efficient mining of coal in West Virginia, including opportunities for the production of electricity;

(2) Production of electricity utilizing coal produced in West Virginia is now inadequately developed in comparison to nearby states with which West Virginia competes for economically beneficial projects. Coal 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 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legislative and procedural rules to determine whether any such rules should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives related to coal electric generation projects. Agencies should also evaluate the data that they have to determine what information might be useful to prompt permitting and approval of coal generated electricity; and

(5) The West Virginia Department of Economic Development established in §5B-2-1 *et seq.* of this code is responsible for implementing this Coal Fired Grid Stabilization and Security Act of 2023 and provide as much assistance as possible to grow and sustain the coal electric generation segment of the economy.

(b) The Legislature declares that facilitating the development of business activity directly and indirectly related to coal electric generation development, transportation, storage, and use serves the public interest of the citizens of this state by promoting economic development, by 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.

§5B-20-3. Identification of suitable sites for coal electric generation projects.

(a) The Department of Economic Development is authorized and directed to identify economically viable sites within the state that are:

- (1) Located near a convenient and sufficient supply of coal;
- (2) Located near consumers to provide a convenient supply of the generated electricity; and,
- (3) Likely to create economically viable coal electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state.

(b) The Department of Economic Development shall use the following criteria in identifying economically viable sites for coal electric generation projects:

- (1) Geographic locations near coal deposits in the state capable of supplying and sustaining one or more coal 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 of electricity by one or more coal 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 for one or more coal electric generation facilities; and
- (4) Geographic locations that can demonstrate that allowable emission increases from one or more coal electric 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.

§5B-20-4. Designation of sites suitable for coal electric generation projects.

(a) Following identification of economically viable sites that may be suitable for coal electric generation projects, the Department of Economic Development shall identify and designate each site it has determined to be suitable for coal 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 electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of the West Virginia Code filed with the Public Service Commission for development of a coal 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; and
- (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 coal as a fuel source.
- (3) This section does not alter, modify and/or cancel any existing cogeneration tariffs authorized by the Public Service Commission.
- (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 §22-5-11c of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a coal generation project, the Department of Economic Development shall construct such facilities as are necessary to acquire such data.