

*vetted*

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957



# ENROLLED

*Committee Substitute for*

HOUSE BILL No. 293

(By Mr. Commons Judiciary)



PASSED March 9 1957

In Effect Today 5 P.M. Passage



**ENROLLED**

COMMITTEE SUBSTITUTE FOR

**House Bill No. 293**

(Originating in the Committee on the Judiciary)

[Passed March 9, 1957; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article fourteen, relating to the promotion and expansion of industrial development in the state of West Virginia and the creation of a public corporation to be known as the West Virginia business development authority and defining its powers and duties.

*Be it enacted by the Legislature of West Virginia:*

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article fourteen, to read as follows:

**Article 14. West Virginia Business Development Authority.**

Section 1. *Short Title.*—This act shall be known and  
2 may be cited as the “West Virginia Business Development  
3 Authority Act.”

Sec. 2. *Legislative Findings and Declaration of Policy.*—  
2 It is hereby determined and declared as a matter of legis-  
3 lative findings:

4 (a) That there currently exists in certain areas of the  
5 state a critical condition of unemployment and that such  
6 condition may well exist, from time to time, in other  
7 areas of the state;

8 (b) That in some areas of the state such conditions are  
9 chronic and of long standing and that, without remedial  
10 measures, they may become so in other areas of the state;

11 (c) That economic insecurity due to unemployment is  
12 a serious menace to the health, safety, morals and general  
13 welfare of the people of the entire state;

14 (d) That the present and prospective health, safety,  
15 morals, right to gainful employment and general welfare  
16 of the people of the state requires as a public purpose the

17 promotion and development within the state of new and  
18 expanded industrial and manufacturing enterprises;

19 (e) That there is a need to stimulate a larger flow of  
20 private investment funds from banks, investment houses,  
21 insurance companies and other financial institutions into  
22 such community industrial building programs in the  
23 state;

24 (f) That by increasing the number of community in-  
25 dustrial building projects presenting attractive opportu-  
26 nities for private investment in such areas, a larger por-  
27 tion of the private capital available in this state for in-  
28 vestment can be put to use in the general economic de-  
29 velopment of the state.

30 Therefore, it is hereby declared to be the policy of the  
31 state of West Virginia to promote the health, safety,  
32 morals, right to gainful employment, business opportu-  
33 nities and general welfare of the inhabitants thereof by  
34 the effectuation of the purposes of this act as hereinafter  
35 set forth in the next succeeding section hereof, and such  
36 purposes are hereby declared to be public purposes for  
37 which public money may be spent.

Sec. 3. *Purposes.*—The purpose of this act is to provide  
2 a public business development authority to promote,  
3 assist, encourage and, in conjunction with banking cor-  
4 porations or institutions, trust companies, savings banks,  
5 building and loan associations, insurance companies, or  
6 related corporations, partnerships, foundations, or other  
7 institutions to develop and advance the business prosper-  
8 ity and economic welfare of the state of West Virginia;  
9 to encourage and assist in the location of new business  
10 and industry in this state, and to rehabilitate existing  
11 business and industry; to create new employment; to  
12 stimulate and assist in the expansion of all kinds of busi-  
13 ness activity which will tend to promote the business  
14 development and maintain the economic stability of this  
15 state, provide maximum opportunities for employment,  
16 encourage thrift and improve the standard of living of the  
17 citizens of this state; to cooperate and act in conjunction  
18 with other organizations, public or private, the objects  
19 of which are the promotion and advancement of industrial,  
20 commercial or agricultural developments in this state.

Sec. 4. *Definitions.*—The following terms, whenever

2 used or referred to in this act, shall have the following  
3 meanings, except in those instances where the context  
4 clearly indicates otherwise:

5 (a) The term "authority" shall mean the public cor-  
6 poration created by this act.

7 (b) The term "board" shall mean the governing body  
8 of the authority.

9 (c) The term "county" shall mean any county of this  
10 state.

11 (d) The term "federal agency" shall mean and include  
12 the United States of America, the president of the United  
13 States of America, and any department of, or corporation,  
14 agency or instrumentality heretofore or hereafter created,  
15 designated or established by the United States of America.

16 (e) The term "government" shall mean the state and  
17 federal governments, or any political subdivision, agency  
18 or instrumentality, corporate or otherwise, of either of  
19 them.

20 (f) The term "industrial development agency" shall  
21 mean any incorporated organization, foundation, associa-  
22 tion or agency, regardless of the particular name, which

23 shall have as its primary function the promotion, en-  
24 couragement and development of industrial and manu-  
25 facturing enterprises in the state of West Virginia.

26 (g) The term "industrial development fund" shall mean  
27 the account created by section eight of this act.

28 (h) The term "industrial development project" shall  
29 mean any undertaking of a proposed industrial, com-  
30 mercial or agricultural enterprise accepted by an ap-  
31 proved industrial development agency or by the board  
32 of this authority as feasible and beneficial to the economic  
33 development of this state, and which will provide addi-  
34 tional employment within this state.

35 (i) The term "municipality" shall mean any incor-  
36 porated city or town of the state of West Virginia.

37 (j) The term "state" shall mean the state of West Vir-  
38 ginia.

Sec. 5. *The West Virginia Business Development*  
2 *Authority.*—There is hereby created and established a  
3 public corporation and governmental instrumentality to  
4 be known as the West Virginia business development  
5 authority consisting of seven members, six of whom shall

6 be residents and qualified voters of this state to be ap-  
7 pointed by the governor, by and with the advice and  
8 consent of the Senate. Such six members shall be ap-  
9 pointed one each from the congressional districts of the  
10 state as the same are constituted at the time of the effec-  
11 tive date of this article. The seventh member shall be the  
12 governor. The members so appointed by the governor  
13 shall be selected with special reference to their knowledge  
14 of and interest in the resources and industrial develop-  
15 ment of the state. Members shall receive no pay for their  
16 services, but with respect to attendance at either regular  
17 or special meetings of the board or other business of the  
18 authority shall be entitled as reimbursement for expenses  
19 of whatever nature incurred fifteen dollars per day for  
20 each day or part thereof devoted to the business of the  
21 authority and eight cents per mile for each mile traveled.  
22 No member shall be an employee of the authority.  
23 The terms of office of the original members of the  
24 authority shall commence upon qualification after ap-  
25 pointment and shall be arranged by the governor in such  
26 manner that the term of one of such members shall ex-



27 pire on the fourteenth day of January of each year,  
28 beginning with January fourteenth, one thousand nine  
29 hundred and fifty-eight. Vacancies may be filled by the  
30 governor at any time, but only for the unexpired portion  
31 of any term and subject to confirmation by the Senate  
32 when it is next in session. Any member may succeed him-  
33 self upon proper appointment.

Sec. 6. *Powers of the Authority; General.*— The author-  
2 ity, as a public corporation and governmental instrument-  
3 ality exercising public powers of the state, is hereby  
4 granted and shall have and may exercise all powers neces-  
5 sary or appropriate to carry out and effectuate the pur-  
6 poses of this act, including the following powers, in addi-  
7 tion to others herein granted:

8 (a) To plan and conduct programs and campaigns of  
9 information, advertising and publicity, which may include  
10 personal visitation and newspaper, magazine, outdoor,  
11 radio and television advertising within and without the  
12 the state of West Virginia, to educate the people in general  
13 and particularly prospective investors of the industrial  
14 opportunities and business possibilities with respect to the

15 natural resources and other commercial advantages of the  
16 state of West Virginia, and to contract for space and time  
17 in advertising mediums of every kind and for exhibitions  
18 at expositions and festivals within and without West Vir-  
19 ginia and encourage and coordinate the activities of other  
20 departments of the state government and private institu-  
21 tions to further the industrial progress of the state;

22 (b) To cooperate with industrial development agencies  
23 and private corporations in their efforts to promote the  
24 expansion of industrial and manufacturing activity;

25 (c) To determine, upon proper application of industrial  
26 development agencies, whether the declared public pur-  
27 pose of this act has been accomplished or will be accom-  
28 plished by the establishment by such industrial develop-  
29 ment agencies of an industrial development project;

30 (d) To sue and be sued, implead and be impleaded, com-  
31 plain and defend in all courts;

32 (e) To adopt, use and alter at will a corporate seal;

33 (f) To make by-laws for the management and regula-  
34 tion of its affairs;

35 (g) To appoint officers, agents, employees and servants;

36 and to prescribe their duties and to fix their compensa-  
37 tion, within the limitations provided by law;

38 (h) To make contracts of every name and nature and  
39 to execute all instruments necessary or convenient for  
40 the carrying on of its business;

41 (i) Without limitation of the foregoing, accept grants  
42 from and to enter into contracts or other transactions  
43 with any federal agency.

Sec. 7. *Fund Created; Finances; Appropriation for*  
2 *State Expenses; Public and Private Contributions; Man-*  
3 *agement and Handling of Moneys.*—The authority shall  
4 create and establish an industrial development fund into  
5 which all moneys of the authority shall be paid. Any sums  
6 appropriated by the Legislature for administrative ex-  
7 penses, investigation, research and other governmental  
8 services and functions of the authority shall be entered  
9 and kept separately in such fund.

10 The authority is hereby authorized and directed to ac-  
11 cept funds or contributions from private sources.

Sec. 8. *Governing Body.*—The powers of the authority  
2 shall be exercised by a governing body consisting of the

3 members of the authority acting as a board. Within  
 4 ninety days after this act shall become effective the board  
 5 shall meet and organize. The governor and his successor  
 6 in office shall be ex officio the chairman until the board  
 7 is organized, and the board shall then elect a chairman,  
 8 secretary and treasurer from among its members. At  
 9 the first meeting in each year thereafter, a chairman,  
 10 secretary and treasurer shall be elected from among the  
 11 members of the board.

12 A majority of the members shall constitute a quorum  
 13 of the board for the purpose of organizing the authority  
 14 and conducting the business thereof, and all action may  
 15 be taken by a vote of a majority of the members present,  
 16 unless in any case the by-laws shall require a larger num-  
 17 ber.

18 The board shall have full authority to manage the  
 19 properties and business of the authority, and to prescribe,  
 20 amend and repeal by-laws, rules and regulations govern-  
 21 ing the manner in which the business of the authority  
 22 may be conducted.

23 The by-laws shall provide for a chief executive officer

24 to be selected by the board, which shall also fix his com  
25 pensation, and who shall be known as the "Managing  
26 Director" of the authority. He shall perform such duties  
27 and assume such responsibilities as the board may pre-  
28 scribe.

Sec. 9. *Moneys of the Authority.*---All moneys of the  
2 authority shall be paid to the treasurer of the authority.  
3 Said moneys shall be deposited in the first instance by  
4 the treasurer in one or more banks or trust companies,  
5 in one or more special accounts, and each of such special  
6 accounts shall be continuously secured by a pledge of  
7 direct obligations of the United States of America or of  
8 the state, having an aggregate market value, exclusive  
9 of accrued interest, at all times at least equal to the  
10 balance on deposit in such account. Such securities shall  
11 either be deposited with the treasurer or be held by a  
12 trustee or agent satisfactory to the authority. All banks  
13 and trust companies are authorized to give such security  
14 for such deposits. The moneys in said accounts shall be  
15 paid out on the warrant or other order of the treasurer of  
16 the authority, or of such other person or persons as the

17 authority may authorize to execute such warrants or  
18 orders.

Sec. 10. *No Member to be Interested in Contracts.*—No  
2 member of the authority or officer or employee thereof  
3 shall either directly or indirectly be a party to or be in  
4 any manner interested in any contract or agreement with  
5 the authority for any matter, cause or thing whatsoever  
6 by reason whereof any liability or indebtedness shall  
7 in any way be created against such authority. If any  
8 contract or agreement shall be made in violation of the  
9 provisions of this section, the same shall be null and void,  
10 and no action shall be maintained thereon against such  
11 authority: *Provided, however,* That this section shall  
12 not apply to situations in which any member, officer or  
13 employee of the authority may also be a member of an  
14 industrial development agency participating in any loans  
15 granted pursuant to the provisions of this act.

Sec. 11. *Division of Investigation and Research.*—The  
2 board shall also establish from any funds at its disposal,  
3 including those arising from appropriations made avail-  
4 able by the Legislature, a division of investigation and

5 research which shall perform such duties as the board  
6 may prescribe. The board is authorized to employ for  
7 this purpose chemists, physicists, geologists, engineers  
8 and scientists of all kinds deemed necessary, and fix the  
9 compensation of such employees. The assistance of the  
10 administrative employees and faculty of West Virginia  
11 university, as well as its laboratory and scientific equip-  
12 ment, and of the state colleges are hereby made avail-  
13 able to the division of investigation and research, subject  
14 to the approval of the chief executive officer of any such  
15 institution of higher learning, and the board may pay  
16 such faculty members such sums, in addition to any  
17 salary received by them as faculty members as afore-  
18 said, as the board shall deem proper.

Sec. 12. *Examination and Audit of Authority Affairs.*—

2 The accounts and books of the authority, including its  
3 receipts, disbursements, contracts and other matters re-  
4 lating to its finances, operation and affairs shall be ex-  
5 amined and audited yearly by the state tax commissioner  
6 and the legislative auditor.

Sec. 13. *Separability.*—The provisions of this act shall

2 be severable, and if any of the provisions thereof shall be  
3 held unconstitutional, such decisions shall not affect the  
4 validity of any of the remaining provisions of this act.  
5 It is hereby declared as the legislative intent that this  
6 act would have been adopted had such unconstitutional  
7 provisions not been included therein.



The Joint Committee on Enrolled Bills hereby certifies that  
the foregoing bill is correctly enrolled.

E. H. McCourt  
Chairman Senate Committee

Witchell  
Chairman House Committee

Originated in the House of Delegates

Takes effect 90 days from passage.

Horace Meyer  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

Ralph J. Bean  
President of the Senate

W. C. Fleming  
Speaker, House of Delegates

The within Vetoed this the 15th  
day of March, 1957.

\_\_\_\_\_  
Governor



Filed in the Office of the Secretary of State  
of West Virginia

**MAR 15 1957**

D. PITT O'BRIEN  
SECRETARY OF STATE