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**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1979**

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**ENROLLED**

**SENATE BILL NO. 390**

(By Mr. Chinn and Mr. Hince)

—•—

PASSED March 9, 1979

In Effect ninety days from Passage



No. 390

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## ENROLLED

### Senate Bill No. 390

(By MR. GAINER and MR. HINKLE)

[Passed March 9, 1979; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, three and five, article one-e, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to further amend said article by adding thereto a new section, designated section ten, all relating to changing the name of the southern interstate nuclear compact to the southern states energy compact; increasing membership of said compact; southern states energy board; increasing membership of said board; alternate members; policy and purpose of compact; expanding powers of said board and compact to include the areas of energy and environment; expenses of members; eligible parties to compact; effective date; and consent of Congress.

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

That sections one, two, three and five, article one-e, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section ten, all to read as follows:

#### ARTICLE 1E. SOUTHERN STATES ENERGY COMPACT.

##### §29-1E-1. Definitions.

- 1 As used in this article, unless the context requires
- 2 otherwise:
- 3 (1) "Compact" means the southern states energy
- 4 compact;
- 5 (2) "Board" means the southern states energy board.

##### §29-1E-2. Enactment of compact.

- 1 The southern states energy compact is hereby enacted
- 2 into law and entered into by the state of West Virginia
- 3 with any and all states legally joining therein in ac-

4 cordance with its terms, in the form substantially as  
5 follows:

6                   **SOUTHERN STATES ENERGY COMPACT**

7                   **Article I. Policy and Purpose**

8       The party states recognize that the proper employment  
9 and conservation of energy, and employment of energy-  
10 related facilities, materials, and products, within the  
11 context of a responsible regard for the environment, can  
12 assist substantially in the industrialization of the south  
13 and the development of a balanced economy for the  
14 region. They also recognize the optimum benefit from  
15 and acquisition of energy resources and facilities requires  
16 systematic encouragement, guidance, and assistance from  
17 the party states on a cooperative basis. It is the policy  
18 of the party states to undertake such cooperation on a  
19 continuing basis; it is the purpose of this compact to  
20 provide the instruments and framework for such a co-  
21 operative effort to improve the economy of the south  
22 and contribute to the individual and community well-  
23 being of the region's people.

24                   **Article II. The Board**

25       (a) There is hereby created an agency of the party  
26 states to be known as the "southern states energy board"  
27 (hereinafter called the board). The board shall be com-  
28 posed of three members from each party state, one of  
29 whom shall be appointed or designated in each state to  
30 represent the governor, the state Senate, and the state  
31 House of Delegates, respectively. Each member shall be  
32 designated or appointed in accordance with the law of  
33 the state which he represents and serving and subject to  
34 removal in accordance with such law. Any member of  
35 the board may provide for the discharge of his duties  
36 and the performance of his functions thereon (either for  
37 the duration of his membership or for any lesser period  
38 of time) by a deputy or assistant, if the laws of his state  
39 make specific provision therefor. The federal government  
40 may be represented without vote if provision is made  
41 by federal law for representation.

42       (b) Each party state shall be entitled to one vote

43 on the board to be determined by majority vote of each  
44 member or member's representative from the party state  
45 present and voting on any question. No action of the  
46 board shall be binding unless taken at a meeting at which  
47 a majority of all party states are represented and unless  
48 a majority of the total number of votes on the board are  
49 cast in favor thereof.

50 (c) The board shall have a seal.

51 (d) The board shall elect annually, from among its  
52 members, a chairman, a vice chairman, and a treasurer.  
53 The board shall appoint an executive director who shall  
54 serve at its pleasure and who shall also act as secretary,  
55 and who, together with the treasurer, shall be bonded  
56 in such amounts as the board may require.

57 (e) The executive director, with the approval of the  
58 board, shall appoint and remove or discharge such per-  
59 sonnel as may be necessary for the performance of the  
60 board's functions irrespective of the civil service, per-  
61 sonnel or other merit system laws of any of the party  
62 states.

63 (f) The board may establish and maintain, inde-  
64 pendently or in conjunction with any one or more of the  
65 party states, a suitable retirement system for its full-  
66 time employees. Employees of the board shall be eligible  
67 for social security coverage in respect of old age and  
68 survivors insurance provided that the board takes such  
69 steps as may be necessary pursuant to federal law to  
70 participate in such program of insurance as a govern-  
71 mental agency or unit. The board may establish and  
72 maintain or participate in such additional programs of  
73 employee benefits as may be appropriate.

74 (g) The board may borrow, accept, or contract for the  
75 services of personnel from any state or the United States  
76 or any subdivision or agency thereof, from any inter-  
77 state agency, or from any institution, person, firm or  
78 corporation.

79 (h) The board may accept for any of its purposes and  
80 functions under this compact any and all donations, and  
81 grants of money, equipment, supplies, materials, and

82 services (conditional or otherwise) from any state or  
83 the United States or any subdivision or agency thereof,  
84 or interstate agency, or from any institution, person, firm  
85 or corporation, and may receive, utilize and dispose of  
86 the same.

87 (i) The board may establish and maintain such facili-  
88 ties as may be necessary for the transacting of its busi-  
89 ness. The board may acquire, hold, and convey real  
90 and personal property and any interest therein.

91 (j) The board shall adopt bylaws, rules, and regula-  
92 tions for the conduct of its business, and shall have the  
93 power to amend and rescind these bylaws, rules and  
94 regulations. The board shall publish its bylaws, rules  
95 and regulations in convenient form and shall file a copy  
96 thereof, and shall also file a copy of any amendment  
97 thereto, with the appropriate agency or officer in each  
98 of the party states.

99 (k) The board annually shall make to the governor  
100 of each party state, a report covering the activities of  
101 the board for the preceding year, and embodying such  
102 recommendations as may have been adopted by the  
103 board, which report shall be transmitted to the legisla-  
104 ture of said state. The board may issue such additional  
105 reports as it may deem desirable.

106

### Article III. Finances

107 (a) The board shall submit to the executive head or  
108 designated officer or officers of each party state a budget  
109 of its estimated expenditures for such period as may be  
110 required by the laws of that jurisdiction for presentation  
111 to the legislature thereof.

112 (b) Each of the board's budgets of estimated expendi-  
113 tures shall contain specific recommendations of the  
114 amount or amounts to be appropriated by each of the  
115 party states. One half of the total amount of each budget  
116 of estimated expenditures shall be apportioned among  
117 the party states in equal shares; one quarter of each  
118 such budget shall be apportioned among the party states  
119 in accordance with the ratio of their populations to  
120 the total population of the entire group of party states

121 based on the last decennial federal census; and one  
122 quarter of each such budget shall be apportioned among  
123 the party states on the basis of the relative average  
124 per capita income of the inhabitants in each of the  
125 party states based on the latest computations published by the federal census-taking agency. Subject  
126 to appropriation by their respective legislatures, the  
127 board shall be provided with such funds by each of the  
128 party states as are necessary to provide the means of  
129 establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill  
130 the powers and duties imposed upon and entrusted to  
131 the board.

134 (c) The board may meet any of its obligations in  
135 whole or in part with funds available to it under article  
136 two (h) of this compact, provided that the board takes  
137 specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part  
138 in this manner. Except where the board makes use of  
139 funds available to it under article two (h) hereof, the  
140 board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to  
141 meet the same.

144 (d) The board shall keep accurate accounts of all  
145 receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and  
146 accounting procedures established under its bylaws.  
147 However, all receipts and disbursements of funds  
148 handled by the board shall be audited yearly by a qualified public accountant and the report of the audit shall  
149 be included in and become part of the annual report of  
150 the board.

153 (e) The accounts of the board shall be open at any  
154 reasonable time for inspections.

#### 155 **Article IV. Advisory Committees**

156 The board may establish such advisory and technical  
157 committees as it may deem necessary, membership on  
158 which to include but not be limited to private citizens,  
159 expert and lay personnel, representatives of industry,  
160 labor, commerce, agriculture, civic associations, medicine,

161 education, voluntary health agencies, and officials of  
162 local, state and federal government, and may cooperate  
163 with and use the services of any such committees and  
164 the organizations which they represent in furthering any  
165 of its activities under this compact.

166 **Article V. Powers**

167 The board shall have power to:

168 (a) Ascertain and analyze on a continuing basis the  
169 position of the south with respect to energy, energy-  
170 related industries and environmental concerns.

171 (b) Encourage the development, conservation and re-  
172 sponsible use of energy and energy-related facilities,  
173 installations, and products as part of a balanced economy  
174 and healthy environment.

175 (c) Collect, correlate, and disseminate information re-  
176 lating to civilian uses of energy and energy-related ma-  
177 terials and products.

178 (d) Conduct, or cooperate in conducting, programs of  
179 training for state and local personnel engaged in any  
180 aspect of:

181 (1) Energy, environment, and applications of energy,  
182 environmental, and related concerns to industry, medi-  
183 cine, or education or the promotion or regulation thereof.

184 (2) The formulation or administration of measures  
185 designed to promote safety in any matter related to the  
186 development, use or disposal of energy and energy-related  
187 materials, products, installations or wastes.

188 (e) Organize and conduct, or assist and cooperate in  
189 organizing and conducting, demonstrations of energy  
190 product, material, or equipment use and disposal and of  
191 proper techniques or processes for the application of  
192 energy resources to the civilian economy or general  
193 welfare.

194 (f) Undertake such nonregulatory functions with re-  
195 spect to sources of radiation as may promote the economic  
196 development and general welfare of the region.

197 (g) Study industrial, health, safety, and other stan-  
198 dards, laws, codes, rules, regulations, and administrative

199 practices in or related to energy and environmental  
200 fields.

201 (h) Recommend such changes in, or amendments or  
202 additions to the laws, codes, rules, regulations, adminis-  
203 trative procedures and practices or ordinances of the  
204 party states in any of the fields of its interest and com-  
205 petence as in its judgment may be appropriate. Any  
206 such recommendation shall be made through the appro-  
207 priate state agency with due consideration of the desira-  
208 bility of uniformity but shall also give appropriate  
209 weight to any special circumstance which may justify  
210 variations to meet local conditions.

211 (i) Prepare, publish and distribute (with or without  
212 charge) such reports, bulletins, newsletters or other ma-  
213 terial as it deems appropriate.

214 (j) Cooperate with the United States department of  
215 energy or any agency successor thereto, any other officer  
216 or agency of the United States and any other govern-  
217 mental unit or agency or officer thereof, and with any  
218 private persons or agencies in any of the fields of its  
219 interest.

220 (k) Act as licensee of the United States government  
221 or any party state with respect to the conduct of any  
222 research activity requiring such license and operate such  
223 research facility or undertake any program pursuant  
224 thereto.

225 (l) Ascertain from time to time such methods, prac-  
226 tices, circumstances, and conditions as may bring about  
227 the prevention and control of energy and environmental  
228 incidents in the area comprising the party states, to  
229 coordinate the nuclear, environmental and other energy-  
230 related incident prevention and control plans and the  
231 work relating thereto of the appropriate agencies of the  
232 party states and to facilitate the rendering of aid by  
233 the party states to each other in coping with energy and  
234 environmental incidents. The board may formulate and,  
235 in accordance with need from time to time, revise a  
236 regional plan or regional plans for coping with energy  
237 and environmental incidents within the territory of the

238 party states as a whole or within any subregion or sub-  
239 regions of the geographic area covered by this compact.

240 **Article VI. Supplementary Agreements**

241 (a) To the extent that the board has not undertaken  
242 an activity or project which would be within its power  
243 under the provisions of article five of this compact, any  
244 two or more of the party states (acting by their duly  
245 constituted administrative officials) may enter into sup-  
246plementary agreements for the undertaking and con-  
247tinuance of such an activity or project. Any such agree-  
248ment shall specify its purpose or purposes; its duration  
249and the procedure for termination thereof or withdrawal  
250therefrom; the method of financing and allocating the  
251costs of the activity or project; and such other matters  
252as may be necessary or appropriate. No such supple-  
253mentary agreement entered into pursuant to this article  
254shall become effective prior to its submission to and  
255approval by the board. The board shall give such ap-  
256proval unless it finds that the supplementary agreement  
257or the activity or project contemplated thereby is in-  
258consistent with the provisions of this compact or a pro-  
259gram or activity conducted by or participated in by the  
260board.

261 (b) Unless all of the party states participate in a  
262 supplementary agreement, any cost or costs thereof shall  
263 be borne separately by the states party thereto. How-  
264 ever, the board may administer or otherwise assist in  
265 the operation of any supplementary agreement.

266 (c) No party to a supplementary agreement entered  
267 into pursuant to this article shall be relieved thereby of  
268 any obligation or duty assumed by said party state under  
269 or pursuant to this compact, except that timely and  
270 proper performance of such obligation of duty by means  
271 of the supplementary agreement may be offered as per-  
272 formance pursuant to the compact.

273 **Article VII. Other Laws and Relationships**

274 Nothing in this compact shall be construed to:

275 (a) Permit or require any person or other entity to  
276 avoid or refuse compliance with any law, rule, regula-

277 tion, order or ordinance of a party state or subdivision  
278 thereof now or hereafter made, enacted or in force.

279 (b) Limit, diminish, or otherwise impair jurisdiction  
280 exercised by the United States department of energy,  
281 any agency successor thereto, or any other federal de-  
282 partment, agency or officer pursuant to and in conformity  
283 with any valid and operative act of Congress.

284 (c) Alter the relations between and respective in-  
285 ternal responsibilities of the government of a party state  
286 and its subdivisions.

287 (d) Permit or authorize the board to exercise any  
288 regulatory authority or to own or operate any nuclear  
289 reactor for the generation of electric energy; nor shall  
290 the board own or operate any facility or installation for  
291 industrial or commercial purposes.

292 **Article VIII. Eligible Parties, Entry Into Force and**  
293 **Withdrawal**

294 (a) Any or all of the states of Alabama, Arkansas,  
295 Delaware, Florida, Georgia, Kentucky, Louisiana, Mary-  
296 land, Mississippi, Missouri, North Carolina, Oklahoma,  
297 South Carolina, Tennessee, Texas, Virginia, West Vir-  
298 ginia, the Commonwealth of Puerto Rico and the United  
299 States Virgin Islands shall be eligible to become party  
300 to this compact.

301 (b) As to any eligible party state this compact shall  
302 become effective when its legislature shall have enacted  
303 the same into law: *Provided*, That it shall not become  
304 initially effective until enacted into law by seven states.

305 (c) Any party state may withdraw from this compact  
306 by enacting a statute repealing the same, but no such  
307 withdrawal shall become effective until the governor of  
308 the withdrawing state shall have sent formal notice in  
309 writing to the governor of each other party state inform-  
310 ing said governors of the action of the legislature in  
311 repealing the compact and declaring an intention to with-  
312 draw.

313 **Article IX. Severability and Construction**

314 The provisions of this compact and of any supplemen-  
315 tary agreement entered into hereunder shall be severable  
316 and if any phrase, clause, sentence or provision of this

317 compact or such supplementary agreement is declared  
318 to be contrary to the constitution of any participating  
319 state or of the United States or the applicability thereof  
320 to any government, agency, person, or circumstance is  
321 held invalid, the validity of the remainder of this compact  
322 or such supplementary agreement and the applicability  
323 thereof to any government, agency, person or circum-  
324 stance shall not be affected thereby. If this compact or  
325 any supplementary agreement entered into hereunder  
326 shall be held contrary to the constitution of any state  
327 participating therein, the compact or such supplementary  
328 agreement shall remain in full force and effect as to the  
329 remaining states and in full force and effect as to the state  
330 affected as to all severable matters. The provisions of this  
331 compact and of any supplementary agreement entered  
332 into pursuant hereto shall be liberally construed to ef-  
333 fectuate the purposes thereof.

**§29-1E-3. Membership of board.**

1 The governor shall appoint one of this state's three  
2 board members of the southern states energy board which  
3 is established by article two of the compact. Such mem-  
4 ber shall serve at the pleasure of the governor. The  
5 president of the Senate and the speaker of the House of  
6 Delegates shall each appoint one member of their respec-  
7 tive houses, to serve at their pleasure, as board members  
8 of the southern states energy board. The president, the  
9 speaker and the governor are each hereby authorized to  
10 appoint an alternate member who may serve at and for  
11 such time as the regular member shall designate and  
12 shall have the same power and authority as the regular  
13 member when so serving.

**§29-1E-5. Duties of members of board.**

- 1 (a) The members of the board appointed and serving  
2 in accordance with section two of this article shall assist  
3 in the coordination of atomic and other energy-related  
4 activities within this state.
- 5 (b) The board members are hereby authorized and em-  
6 powered to assist in the orderly development of atomic  
7 and other energy-related knowledge within the state of  
8 West Virginia.

**§29-1E-10. Effective date of amendments to compact; prior compact to continue in force.**

1     The amendatory provisions to section two of this article  
2     enacted in the year one thousand nine hundred seventy-  
3     nine shall become effective at such time as nine of the  
4     eligible party states to the southern interstate nuclear  
5     compact, which may include the Commonwealth of Puer-  
6     to Rico, and the United States Virgin Islands, approve  
7     substantially the same changes in the compact as are  
8     provided for in section two of this article and the Con-  
9     gress of the United States consents to the compact, sub-  
10    stantially as amended by section two of this article; until  
11    such time, this state shall continue to remain a member  
12    of the southern interstate nuclear compact as set forth in  
13    chapter three, acts of the Legislature, one thousand nine  
14    hundred sixty-four.

Enr. S. B. No. 390]

12 MAR 27 P11:46

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

*James L. Davis*  
Chairman Senate Committee

*Clarence C. Chustar*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*J. C. Willoughby*  
Clerk of the Senate

*U. A. Blankenship*  
Clerk of the House of Delegates

*W. B. B. B. B.*  
President of the Senate

*W. M. Lee, Jr.*  
Speaker House of Delegates

The within *is approved* this the *27*  
day of *March*, 1979.

*John D. Ralston*  
Governor

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