

4527

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

Com. Sub. for
HOUSE BILL No. HS. 27

(By Mr. Speaker, Mr. Chambers & Del. Swann
[By request of the Executive])

— ● —

Passed March 9 1988

In Effect ninety days from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4527

(By MR. SPEAKER, MR. CHAMBERS, and DELEGATE SWANN)
[By request of the Executive]

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AN ACT to amend and reenact sections two, three, five, six, eight, twelve, thirteen, fourteen and fifteen, article one, chapter five-d of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to the public energy authority; purposes; definitions; authorizing the acquisition, lease, lease with an option to purchase by the lessee, or sale of electric power projects and natural gas transmission projects; authorizing the financing of such electric power projects and natural gas transmission projects by loans from the authority; authority contracts for facilities leased to persons other than governmental agencies; authorizing the issuance of bonds by the authority under certain circumstances; providing for the method for issuing bonds; providing for the security for and payment of bonds; providing for the sale of property; and adding by-products of coal as a source of fuel for electric power projects.

Be it enacted by the Legislature of West Virginia:

That sections two, three, five, six, eight, twelve, thirteen, fourteen and fifteen, article one, chapter five-d of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 1. PUBLIC ENERGY AUTHORITY OF THE STATE OF
WEST VIRGINIA.

§5D-1-2. Purpose and intent.

1 The Legislature finds and declares:

2 (a) That the long-term health and economy of the
3 United States will depend upon the availability of
4 reliable sources of energy;

5 (b) That the state of West Virginia has abundant
6 reserves of coal, natural gas and other natural resources;

7 (c) That the economy of the state of West Virginia
8 needs a reliable and dependable market for the state's
9 coal, natural gas and other natural resources and the by-
10 products thereof;

11 (d) That the state of West Virginia needs to encourage
12 the efficient utilization and disposition of by-products
13 resultant from the production of natural resources;

14 (e) That, with all due regard to the protection of the
15 environment and husbandry of the natural resources of
16 this state, the health, happiness, safety, right of gainful
17 employment and general welfare of the citizens of this
18 state will be promoted by the establishment and
19 operation of coal fired electric generating plants and
20 transmission facilities and the establishment and
21 operation of natural gas transmission projects and/or
22 other energy projects; and

23 (f) That the means and measures herein authorized
24 for the financing, building and operation of the facilities
25 described in subsection (e) are, as a matter of public
26 policy, for the public purpose of the state.

27 Accordingly, the public energy authority created
28 herein shall be authorized to initiate such directives and
29 take such measures as may be necessary to effectuate
30 the public purpose of this chapter.

§5D-1-3. Definitions.

1 As used in this article, unless the context clearly
2 requires a different meaning:

3 (1) "Authority" means the West Virginia public

4 energy authority created in section four of this article,
5 the duties, powers, responsibilities and functions of
6 which are specified in this article.

7 (2) "Board" means the West Virginia public energy
8 authority board created in section four of this article,
9 which shall manage and control the West Virginia
10 public energy authority.

11 (3) "Bond" means a revenue bond, or note or other
12 evidence of indebtedness, including, but not limited to, a
13 taxable bond and commercial paper, issued by the West
14 Virginia economic development authority or by the
15 authority to effect the intents and purposes of this
16 article.

17 (4) "Construction" includes construction, acquisition,
18 reconstruction, enlargement, improvement and provid-
19 ing furnishings or equipment.

20 (5) "Cost" as applied to natural gas transmission
21 projects, electric power projects or other energy projects
22 authorized by the authority includes, but is not limited
23 to: The cost of their acquisition and construction,
24 including all costs pertaining to pipelines; the cost of
25 acquisition of all land, rights-of-way, property rights,
26 easements, franchise rights, contract rights, lease rights
27 and other rights or interests required by the authority
28 for such acquisition and construction; the cost of
29 demolishing or removing any pipeline, buildings or
30 structures on land so acquired, including the cost of
31 acquiring any lands to which such pipelines, buildings
32 or structures may be moved; the cost of acquiring or
33 constructing and equipping a principal office and
34 suboffices of the authority; the cost of diverting
35 highways, interchange of highways and access roads to
36 private property, including the cost of land or easements
37 therefor; the cost of all machinery, furnishings and
38 equipment, all financing charges, and interest prior to
39 and during construction and after completion of
40 construction; the cost of all engineering services and all
41 expenses of research and development with respect to
42 natural gas transmission projects, electric power
43 projects, and related facilities; the cost of all legal

44 services and expenses; the cost of all plans, specifica-
45 tions, surveys and estimates of cost and revenues; all
46 working capital and other expenses necessary or
47 incident to determining the feasibility or practicability
48 of acquiring or constructing any such projects; all
49 administrative expenses and such other expenses as may
50 be necessary or incident to the acquisition or construc-
51 tion of any such projects; the financing of such acqui-
52 sition or construction, and the cost of financing of the
53 placing of any such project in operation. Any obligation
54 or expenses incurred after the effective date of this
55 article by any person, with the approval of the authority,
56 for surveys, borings, preparation of plans and specifica-
57 tions and other engineering services in connection with
58 the acquisition or construction of a project shall be
59 regarded as a part of the cost of such project and shall
60 be reimbursed out of the proceeds of loans or bonds as
61 authorized by the provisions of this article.

62 (6) "End-user" means any person who consumes or
63 uses natural gas in connection with any industrial,
64 commercial, residential or other use, except that such
65 term shall not include any person purchasing such
66 natural gas for resale to another person. For purposes
67 of this article, the term end-user shall include local
68 distribution companies and intrastate pipelines as
69 defined in article three, chapter twenty-four of this code.

70 (7) "Electric power project" means the complex of
71 structures, machinery and associated equipment for the
72 generation or transmission of electricity including the
73 production and distribution of other energy produced
74 from coal natural gas and by-products of coal occurring
75 as a result of the production of coal, and all facilities
76 related or incidental thereto.

77 (8) "Governmental agency" means the state govern-
78 ment or any agency, department, division or unit
79 thereof; counties; municipalities; public service districts;
80 regional governmental authorities and any other
81 governmental agency, entity, political subdivision,
82 public corporation or agency; the United States govern-
83 ment or any agency, department, division or unit
84 thereof; and any agency, commission or authority

85 established pursuant to an interstate compact or
86 agreement.

87 (9) "Local distribution company" means any person,
88 other than any interstate pipeline or any intrastate
89 pipeline, engaged in transportation or local distribution
90 of natural gas and the sale of natural gas for ultimate
91 consumption.

92 (10) "Natural gas transmission project" means any
93 natural gas pipeline and all facilities necessary or
94 incident to the transportation of natural gas to or for the
95 benefit of industrial or other end-users in West Virginia,
96 the acquisition or construction of which is financed, in
97 whole or in part, by the West Virginia public energy
98 authority or the acquisition or construction of which is
99 financed, in whole or in part, from funds made available
100 by grant, loan or any other source by, or through, the
101 authority as provided in this article, including facilities,
102 the acquisition or construction of which is authorized,
103 in whole or in part, by the West Virginia public energy
104 authority or the acquisition or construction of which is
105 financed, in whole or in part, from funds made available
106 by grant, loan or any other source by, or through, the
107 authority as provided in this article, including all
108 pipelines, buildings and facilities which the authority
109 deems necessary for the operation of the project,
110 together with all property, rights, easements and
111 interests which may be required for the operation of the
112 project.

113 (11) "Owner" includes all persons having any title or
114 interest in any property rights, easements and interests
115 authorized to be acquired by this article.

116 (12) "Person" means any public or private corpora-
117 tion, institution, association, firm or company organized
118 or existing under the laws of this or any other state or
119 country; the United States or the state of West Virginia;
120 any federal or state governmental agency; political
121 subdivision; county commission; municipality; industry;
122 public service district; partnership; trust; estate; person
123 or individual; and group of persons or individuals acting
124 individually or as a group or any other legal entity

125 whatever.

126 (13) "Pipeline" or "pipelines" means any actual lines
127 of pipe for the transmission and distribution of natural
128 gas together with all appurtenances, facilities, struc-
129 tures, equipment, machinery and other items related to
130 the transmission and distribution of gas through lines
131 of pipe.

132 (14) "Revenue" means any money or thing of value
133 collected by, or paid to, the West Virginia public energy
134 authority as rents, loan payments, installment pay-
135 ments, or other proceeds of sale, rates, user fees, service
136 charges or other charges for the electric power produced
137 by, for the use of, for the lease, the lease with an option
138 to purchase or the purchase of, or in connection with any
139 electric power project; or as rent, use, transportation or
140 service fee or charge for use of, or in connection with,
141 any natural gas transmission project; or other money or
142 property from any source which is received and may be
143 expended for or pledged as revenues pursuant to this
144 article.

**§5D-1-5. Powers, duties and responsibilities of authority
generally.**

1 The West Virginia public energy authority is hereby
2 granted, has and may exercise all powers necessary or
3 appropriate to carry out and effectuate its corporate
4 purpose. The authority shall have the power and
5 capacity to:

6 (1) Adopt, and from time to time, amend and repeal
7 bylaws necessary and proper for the regulation of its
8 affairs and the conduct of its business and rules and
9 regulations to implement and make effective its powers
10 and duties, such rules and regulations to be promul-
11 gated in accordance with the provisions of chapter
12 twenty-nine-a of this code.

13 (2) Adopt and use an official seal and alter the same
14 at pleasure.

15 (3) Maintain a principal office and, if necessary,
16 regional suboffices at locations properly designated or
17 provided.

18 (4) Sue and be sued in its own name and plead and
 19 be impleaded in its own name, and particularly to
 20 enforce the obligations and covenants made under this
 21 article. Any actions against the authority shall be
 22 brought in the circuit court of Kanawha County.

23 (5) Acquire, whether by purchase, construction, gift,
 24 lease, lease-purchase or otherwise, any electric power
 25 project or natural gas transmission project. In the event
 26 that an electric power project to be constructed pursu-
 27 ant to this article is designed to utilize coall wastes for
 28 the generation of electricity or the production of other
 29 energy, such project shall also be capable of using coal
 30 as its primary energy input: *Provided*, That it shall be
 31 demonstrated to the authority's satisfaction that quan-
 32 tities of coal wastes exist in amounts sufficient to
 33 provide energy input for such project for the term of the
 34 bonds or notes issued by the authority to finance the
 35 project and are accessible to the project.

36 (6) Lease, lease with an option by the lessee to
 37 purchase, sell, by installment sale or otherwise, or
 38 otherwise dispose of, to persons other than governmental
 39 agencies, any or all of its electric power projects or
 40 natural gas transmission projects for such rentals or
 41 amounts and upon such terms and conditions as the
 42 public energy authority board may deem advisable.

43 (7) Finance one or more electric power projects or
 44 natural gas transmission projects by making secured
 45 loans to persons other than governmental agencies to
 46 provide funds for the acquisition, by purchase, construc-
 47 tion or otherwise, of any such project or projects.

48 (8) Issue bonds for the purpose of financing the cost
 49 of acquisition and construction of one or more electric
 50 power projects or natural gas transmission projects or
 51 any additions, extensions or improvements thereto
 52 which will be sold, leased with an option by the lessee
 53 to purchase, leased or otherwise disposed of to persons
 54 other than governmental agencies or for the purpose of
 55 loaning the proceeds thereof to persons other than
 56 governmental agencies for the acquisition and construc-
 57 tion of said projects or both. Such bonds shall be issued

58 and the payment of such bonds secured in the manner
59 provided by the applicable provisions of sections seven,
60 eight, nine, ten, eleven, twelve, thirteen and seventeen,
61 article two-c, chapter thirteen of this code: *Provided*,
62 That the principal and interest on such bonds shall be
63 payable out of the revenues derived from the lease, lease
64 with an option by the lessee to purchase, sale or other
65 disposition of or from loan payments in connection with
66 the electric power project or natural gas transmission
67 project for which the bonds are issued, or any other
68 revenue derived from such electric power project or
69 natural gas transmission project.

70 (9) In the event that the electric power project or
71 natural gas transmission project is to be constructed or
72 owned by a governmental agency, apply to the economic
73 development authority for the issuance of bonds payable
74 solely from revenues as provided in article fifteen,
75 chapter thirty-one of this code: *Provided*, That the
76 economic development authority shall not issue any such
77 bonds except by an act of general law: *Provided*,
78 *however*, That the authority shall require that in the
79 construction of any such project, prevailing wages shall
80 be paid as part of a project specific agreement which
81 also takes into account terms and conditions contained
82 in the West Virginia-Ohio valley market retention and
83 recovery agreement or a comparable agreement.

84 (10) Acquire by gift or purchase, hold and dispose of
85 real and personal property in the exercise of its powers
86 and the performance of its duties as set forth in this
87 article.

88 (11) Acquire in the name of the state, by purchase or
89 otherwise, on such terms and in such manner as it
90 deems proper, or by the exercise of the right of eminent
91 domain in the manner provided in chapter fifty-four of
92 this code, such real property or parts thereof or rights
93 therein, rights-of-way, property, rights, easements and
94 interests it deems necessary for carrying out the
95 provisions of this article, and compensation shall be paid
96 for public or private lands so taken; and the authority
97 may sell any of the real property or parts thereof or
98 rights therein, rights-of-way, property, rights, ease-

99 ments and interests acquired hereunder in such manner
100 and upon such terms and conditions as the authority
101 deems proper: *Provided*, That if the authority deter-
102 mines that land or an interest therein acquired by the
103 authority through the exercise of the power of eminent
104 domain for the purpose of this article is no longer
105 necessary or useful for such purposes, and if the
106 authority desires to sell such land or interest therein, the
107 authority shall first offer to sell such land or interest to
108 the owner or owners from whom it was acquired, at a
109 price equal to its fair market value: *Provided, however*,
110 That if the prior owner or owners shall decline to
111 reacquire the land or interest therein, the authority
112 shall be authorized to dispose of such property by direct
113 sale, auction, or competitive bidding. In no case shall
114 such land or an interest therein acquired under this
115 subdivision be sold for less than its fair market value.
116 This article does not authorize the authority to take or
117 disturb property or facilities belonging to any public
118 utility or to a common carrier, which property or
119 facilities are required for the proper and convenient
120 operation of such public utility or common carrier,
121 except for the acquisition of easements or rights-of-way
122 which will not unreasonably interfere with the operation
123 of the property or facilities of such public utility or
124 common carrier, and in the event of the taking or
125 disturbance of property or facilities of public utility or
126 common carrier, provision shall be made for the
127 restoration, relocation or duplication of such property or
128 facilities elsewhere at the sole cost of the authority.

129 The term "real property" as used in this article is
130 defined to include lands, structures, franchises and
131 interests in land, including lands under water and
132 riparian rights, and any and all other things and rights
133 usually included within the said term, and includes also
134 any and all interests in such property less than full title,
135 such as easements, rights-of-way, uses, leases, licenses
136 and all other incorporeal hereditaments and every
137 estate, interest or right, legal or equitable, including
138 terms for years and liens thereon by way of judgments,
139 mortgages or otherwise, and also all claims for damages
140 for such real estate.

141 For the purposes of this section "fair market value"
142 shall be determined by an appraisal made by an
143 independent person or firm chosen by the authority. The
144 appraisal shall be performed using the principles
145 contained in the "Uniform Appraisal Standards for
146 Federal Land Acquisitions" published under the auspi-
147 ces of the Interagency Land Acquisition Conference,
148 United States Government Printing Office, 1972.

149 (12) Make and enter into all contracts and agreements
150 and execute all instruments necessary or incidental to
151 the performance of its duties and the execution of its
152 powers: *Provided*, That if any electric power project or
153 natural gas transmission project is to be constructed by
154 a person other than a governmental agency, and with
155 whom the authority has contracted to lease, sell or
156 finance such project upon its completion, then the
157 authority shall not be required to comply with the
158 provisions of article twenty-two, chapter five of this code
159 requiring the solicitation of competitive bids for the
160 construction of such a project.

161 (13) Employ managers, superintendents and other
162 employees, and retain or contract with consulting
163 engineers, financial consultants, accountants, architects,
164 attorneys, and such other consultants and independent
165 contractors as are necessary in its judgment to carry out
166 the provisions of this article, and fix the compensation
167 or fees thereof. All expenses thereof shall be payable
168 solely from the proceeds of bonds issued by the economic
169 development authority, from the proceeds of bonds
170 issued by or loan payments, lease payments or other
171 payments received by the authority, from revenues and
172 from funds appropriated for such purpose by the
173 Legislature.

174 (14) Receive and accept from any federal agency, or
175 any other source, grants for or in aid of the construction
176 of any project or for research and development with
177 respect to electric power projects, natural gas transmis-
178 sion projects or other energy projects, and receive and
179 accept aid or contribution from any source of money,
180 property, labor or other things of value to be held, used
181 and applied only for the purpose for which such grants

182 and contributions are made.

183 (15) Purchase property coverage and liability insu-
 184 rance for any electric power project or natural gas
 185 transmission project or other energy project and for the
 186 principal office and suboffices of the authority, insu-
 187 rance protecting the authority and its officers and
 188 employees against liability, if any, for damage to
 189 property or injury to or death of persons arising from
 190 its operations and any other insurance which may be
 191 provided for under a resolution authorizing the issuance
 192 of bonds or in any trust agreement securing the same.

193 (16) Charge, alter and collect transportation fees and
 194 other charges for the use or services of any natural gas
 195 transmission project as provided in this article.

196 (17) Charge and collect fees or other charges from any
 197 energy project undertaken as a result of this article.

198 (18) When the electric power project is owned and
 199 operated by the authority, charge reasonable fees in
 200 connection with the making and providing of electric
 201 power and the sale thereof to corporations, states,
 202 municipalities or other entities in the furtherance of the
 203 purposes of this article.

204 (19) Purchase and sell electricity or other energy
 205 produced by an electric power project in and out of the
 206 state of West Virginia.

207 (20) Enter into wheeling contracts for the transmis-
 208 sion of electric power over the authority's or another
 209 party's lines.

210 (21) Make and enter into contracts for the construc-
 211 tion of a project facility and joint ownership with
 212 another utility, and the provisions of this article shall
 213 not constrain the authority from participating as a joint
 214 partner therein.

215 (22) Make and enter into joint ownership agreements.

216 (23) Establish or increase reserves from moneys
 217 received or to be received by the authority to secure or
 218 to pay the principal of and interest on the bonds issued
 219 by the economic development authority pursuant to the

220 provisions of article fifteen, chapter thirty-one of this
221 code or bonds issued by the authority.

222 (24) Broker the purchase of natural gas for resale to
223 end-users: *Provided*, That whenever there are local
224 distribution company pipelines already in place the
225 authority shall arrange to transport the gas through
226 such pipelines at the rates approved by the public
227 service commission of West Virginia.

228 (25) Engage in market research, feasibility studies,
229 commercial research, and other studies and research
230 pertaining to electric power projects and natural gas
231 transmission projects or any other functions of the
232 authority pursuant to this article.

233 (26) Enter upon any lands, waters and premises in the
234 state for the purpose of making surveys and examina-
235 tions as it may deem necessary or convenient for the
236 purpose of this article, and such entry shall not be
237 deemed a trespass, nor shall an entry for such purposes
238 be deemed an entry under any condemnation proceed-
239 ings which may be then pending, and the authority shall
240 make reimbursement for any actual damages resulting
241 to such lands, waters and premises as a result of such
242 activities.

243 (27) Participate in any reorganization proceeding
244 pending pursuant to the United States Code (being the
245 act of Congress establishing a uniform system of
246 bankruptcy throughout the United States, as amended)
247 or any receivership proceeding in a state or federal
248 court for the reorganization or liquidation of a respon-
249 sible buyer or responsible tenant. The authority may file
250 its claim against any such responsible buyer or respon-
251 sible tenant in any of the foregoing proceedings, vote
252 upon any question pending therein, which requires the
253 approval of the creditors participating in any reorgan-
254 ization proceeding or receivership, exchange any
255 evidence of such indebtedness for any property, security
256 or evidence of indebtedness offered as a part of the
257 reorganization of such responsible buyer or responsible
258 tenant or of any entity formed to acquire the assets
259 thereof and may compromise or reduce the amount of

260 any indebtedness owing to it as a part of any such
261 reorganization.

262 (28) Make or enter into management contracts with
263 a second party or parties to operate any electric power
264 project or any gas transmission project and associated
265 facilities, or other related energy project, either during
266 construction or permanent operation.

267 (29) Do all acts necessary and proper to carry out the
268 powers expressly granted to the authority in this article.

269 (30) Nothing herein shall be construed to permit the
270 transportation of gas produced outside of this state
271 through a natural gas transmission project.

**§5D-1-6. Authority may construct, finance, lease, sell,
maintain, etc., electric power projects and
transmission facilities.**

1 To accomplish the public policies and purposes and to
2 meet the responsibility of the state as set forth in this
3 article, the West Virginia public energy authority may
4 initiate, acquire, construct, maintain, lease, lease with
5 an option for the lessee to purchase, sell, by installment
6 sale or otherwise, or otherwise dispose of, repair and
7 operate electric power generating projects and trans-
8 mission facilities, and may issue bonds for the purpose
9 of financing the cost of acquisition and construction of
10 electric power projects and transmission facilities which
11 will be sold, leased, leased with an option by the lessee
12 to purchase or otherwise disposed of to person other than
13 governmental agencies or for the purpose of loaning the
14 proceeds thereof to persons other than governmental
15 agencies for the acquisition and construction of said
16 projects or both; or if the electric power project is to be
17 owned by a governmental agency request the issuance
18 of bonds by the economic development authority,
19 payable solely from revenues, to pay the cost or finance
20 in whole or in part such projects: *Provided*, That the
21 economic development authority shall not be authorized
22 to issue any such bonds except by an act of general law,
23 as provided in article fifteen, chapter thirty-one of this
24 code. An electric power project shall not be undertaken
25 unless it has been determined by the authority that the

26 project will be consistent with the purposes set out in
27 this article. Any resolution providing for acquiring or
28 constructing such projects shall include a finding by the
29 authority that such determinations have been made.

30 The authority is authorized and directed:

31 (1) To cooperate with the appropriate agencies and
32 officials of the United States government to the end that
33 any electric power project shall be so planned and
34 constructed as to be adaptable to the plans of the United
35 States.

36 (2) To apply to the appropriate agencies and officials
37 of the United States government including the federal
38 energy regulatory commission for such licenses, permits
39 or approval of its plans or projects as it may deem
40 necessary or advisable, and in its discretion and upon
41 such terms and conditions as it may deem appropriate,
42 to accept such licenses, permits or approvals as may be
43 tendered to it by such agencies or officials and such
44 federal or other public or governmental assistance as is
45 now or may hereafter become available to it; and to
46 enter into contracts with such agencies or officials
47 relating to the construction or operation of any project
48 authorized by this article.

49 (3) To proceed with the physical construction or
50 completion of any project authorized by this article,
51 including the erection of the necessary power houses and
52 other facilities, instrumentalities and things necessary
53 or convenient to that end, and including also the erection
54 of such transmission lines as may be necessary to
55 conduct the electricity; and including also the acqui-
56 sition or construction of transmission lines or the use of
57 such transmission lines, available or which may be made
58 available, to conduct electricity to such point or points
59 at which the electricity is sold by the authority to any
60 person, corporation or association, public or private.

61 (4) To cooperate with and, when the board deems it
62 feasible and advisable, to enter into contractual arran-
63 gements with utility companies.

64 (5) To purchase, when available, coal natural gas or

65 the by-products of coal produced in this state as the fuel
66 source for all electric power projects.

**§5D-1-8. Annual report to governor and Legislature;
audit.**

1 The authority shall make an annual report, as soon as
2 possible after the close of each fiscal year, of its
3 activities for the preceding fiscal year to the governor
4 and the Legislature. Each such report shall set forth a
5 complete operating and financial statement covering the
6 authority's operations during the preceding fiscal year.
7 The authority shall cause an audit of its books and
8 accounts to be made at least once each fiscal year by
9 certified public accountants and the cost thereof may be
10 treated as a part of the cost of financing, of construction
11 or of operations of its projects.

§5D-1-12. Maintenance, operation and repair of projects.

1 Each electric power project, each natural gas trans-
2 mission project or other energy project owned and
3 operated by the authority, when constructed and placed
4 in operation, shall be maintained and kept in good
5 condition and repair by the authority. Each such project
6 owned and operated by the authority shall be operated
7 by such operating employees as the authority employs
8 or pursuant to a contract or lease with a governmental
9 agency or person. All public or private property
10 damaged or destroyed in carrying out the provisions of
11 this article and in the exercise of the powers granted
12 hereunder with regard to any project shall be restored
13 or repaired and placed in its original condition, as
14 nearly as practicable, or adequate compensation made
15 therefor out of funds provided in accordance with the
16 provisions of this article.

§5D-1-13. Bonds lawful investments.

1 The provisions of sections nine and ten, article six,
2 chapter twelve of this code to the contrary notwithstand-
3 ing, all bonds issued by either the West Virginia
4 economic development authority or the authority for the
5 purposes of this article shall be lawful investments for
6 the West Virginia state board of investments and shall

7 also be lawful investments for banking institutions,
8 societies for savings, building and loan associations,
9 savings and loan associations, deposit guarantee associ-
10 ations, trust companies, and insurance companies,
11 including domestic for life and domestic not for life
12 insurance companies.

§5D-1-14. Exemption from taxation.

1 The exercise of the powers granted to the authority
2 by this article will be in all respects for the benefit of
3 the people of the state, for the improvement of their
4 health, safety, convenience and welfare and for the
5 enhancement of their residential, agricultural, recrea-
6 tional, economic, commercial and industrial opportuni-
7 ties and is a public purpose. As the ownership, operation
8 and maintenance of natural gas transmission projects
9 and electric power projects and other energy projects
10 owned and/or operated by the authority will constitute
11 the performance of essential governmental functions,
12 the authority shall not be required to pay any taxes or
13 assessments upon any such project or upon any property
14 acquired or used by the authority or upon the income
15 therefrom. Natural gas transmission projects and
16 electric power projects and other energy projects owned
17 or leased by persons other than governmental agencies
18 shall be subject to any taxes or assessments upon any
19 such project or projects. Bonds issued by either the West
20 Virginia economic development authority or the author-
21 ity and all interest and income thereon shall be exempt
22 from all taxation by this state, or any county, munic-
23 ipality, political subdivision or agency thereof, except
24 inheritance taxes: *Provided*, That the authority shall
25 require a fee in substitution of any ad valorem tax
26 exemption to be negotiated by said authority.

**§5D-1-15. Acquisition of property by authority—Acquisi-
tion by purchase, lease or eminent domain;
governmental agencies authorized to con-
vey, etc., property; sale of property by
authority.**

1 The authority may acquire by purchase, or otherwise,
2 as authorized by this article whenever it deems such

3 acquisition expedient, any land, property, rights, rights-
4 of-way, franchises, easements, leases and other interests
5 in lands it deems necessary or convenient for the
6 construction and operation of any natural gas transmis-
7 sion project, any electric power project, or other energy
8 project.

9 All governmental agencies, notwithstanding any
10 contrary provision of law, may lease, lend, grant or
11 convey to the authority, at its request, upon such terms
12 as the proper authorities of such governmental agencies
13 deem reasonable and fair, any real property or interest
14 therein, including improvements thereto or personal
15 property which is necessary or convenient to the
16 effectuation of the authorized purposes of the authority,
17 including public roads and other real property or
18 interests therein, including improvements thereto or
19 personal property already devoted to public use.

20 The authority may sell any land, property, rights,
21 rights-of-way, franchises, easements, leases and other
22 interests in land acquired under the provisions of this
23 section in such manner and upon such terms and
24 conditions as it deems proper.

Handwritten signatures and initials:
- Top left: "HRS"
- Top right: "M. J. [unclear]"
- Bottom left: "J. [unclear]"

Enr. Com. Sub. for H. B. 4527] 18

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

Bruce O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Iddle C. Withers
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Sam Tomlinson
President of the Senate

Robert A. Bell
Speaker of the House of Delegates

The within *approved* this the *28th*
March day of _____, 1988.

Anna R. Francis
Governor

PRESENTED TO THE

GOVERNOR

Date 3/18/88

Time 4:42 p.m.

RECEIVED

1950 MAR 31 12:30 PM

OFFICE OF THE
SECRETARY OF STATE