

# 4527

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



# 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)  
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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 coal 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 acquisition  
56 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 arrangements  
63 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, including the word "State" and "Secretary".*

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.

*Judd C. Wethers*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Sam Tomberlin*  
President of the Senate

*Robert A. Bell*  
Speaker of the House of Delegates

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

*Arthur B. Shaffer, Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/18/88

Time 4:42 p.m.

RECEIVED

1969 MAR 31 4 10 47

OFFICE OF THE ATTORNEY  
GENERAL  
SECRETARY OF STATE