WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1998

ENROLLED

House Bill No. 4228
(By Mr. Speaker, Mr. Kiss, and Delegates Martin, Warner, Staton, Kuhn, Collins and Linch)

Passed March 14, 1998
In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 4228

(BY MR. SPEAKER, MR. KISS, AND DELEGATES MARTIN, VARNER, STATON, KUHN, COLLINS AND LINCH)

[Passed March 13, 1998; in effect from passage.]

AN ACT to amend chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended by adding thereto a new article, designated article twenty-three, relating to prohibiting the state division of environmental protection from modifying any agency rule which implements the provisions of the United Nations framework convention on global climate change treaty and its proposed reductions of limitations on greenhouse gases emissions; providing legislative findings relating thereto; prohibiting the division of environmental protection from entering into any agreement with any federal agency relating to limiting state emission of greenhouse gases resulting from the Kyoto protocol; allowing continuation of voluntary reduction efforts; and providing that this article be effective until a federal treaty supersedes the requirements of this article.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 23. KYOTO PROTOCOL; ENFORCEMENT PROHIBITIONS.

§22-23-1. Findings and purposes.

1 The West Virginia Legislature hereby finds that:

2 (a) The United States is a signatory to the one thousand nine hundred ninety-two United Nations Framework Convention on Global Climate Change Treaty ("FCCC");

3 (b) A protocol to expand the scope of the FCCC was negotiated in December, one thousand nine hundred ninety-seven in Kyoto, Japan ("Kyoto Protocol"), requiring the United States to reduce emissions of greenhouse gases such as carbon dioxide and methane by seven percent from one thousand nine hundred ninety emission levels during the years two thousand eight to two thousand twelve, with similar reduction obligations for other major industrial nations;

4 (c) Developing nations, including China, India, Mexico, Indonesia and Brazil, are exempt from greenhouse gas emission limitation requirements in the FCCC;

5 (d) Developing nations refused in the Kyoto negotiations to accept any new commitments for greenhouse gas emission limitations through the Kyoto Protocol or other agreements;

6 (e) With respect to new commitments under the FCCC, President William J. Clinton pledged on the twenty-second day of October, one thousand nine hundred ninety-seven, that "The United States will not assume binding obligations unless key developing nations meaningfully participate in this effort";

7 (f) On the twenty-fifth day of July, one thousand nine hundred ninety-seven, the United States Senate adopted Senate Resolution Number Ninety-eight by a vote of ninety-five to zero, expressing the sentiment of the Senate
that "the United States should not be a signatory to any protocol to other agreement regarding, the Framework Convention on Climate Change... which would require the advice and consent of the Senate to ratification, and which would mandate new commitments to mitigate greenhouse gas emissions for the Developed Country Parties, unless the protocol or other agreement also mandates specific scheduled commitments within the same compliance period to mitigate greenhouse gas emissions for Developing Country Parties";

(g) The Kyoto Protocol fails to meet the tests established for acceptance of new climate change commitments by President Clinton and by United States Senate Resolution Number ninety-eight;

(h) Achieving the emission reductions proposed by the Kyoto Protocol would require more than a thirty-five percent reduction in projected United States carbon dioxide and other greenhouse gas emissions during the period between two thousand eight to two thousand twelve;

(i) Developing countries exempt from emission limitations under the Kyoto Protocol are expected to increase their rates of fossil fuel use over the next two decades, and to surpass the United States and other industrialized countries in total emissions of greenhouse gases;

(j) Increased emissions of greenhouse gases by developing countries would offset any potential environmental benefits associated with emissions reductions achieved by the United States and by other industrial nations;

(k) Economic impact studies by the United States government estimate that legally binding requirements for the reduction of United States greenhouse gases to one thousand nine hundred ninety, emission levels would result in the loss of more than nine hundred thousand jobs in the United States, sharply increased energy prices, reduced family incomes and wages, and severe losses of output in energy-intensive industries important to the West
Virginia economy such as aluminum, steel, rubber, chemicals and utilities;

(i) The failure to provide for commitments by developing countries in the Kyoto Protocol creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from the United States to developing countries;

(m) Federal implementation of the Kyoto Protocol, if ratified by the United States Senate, would entail new congressional legislation whose form and requirements cannot be predicted at this time, but could include national energy taxes or emission control allocation schemes that would preempt state-specific programs intended to reduce emissions of greenhouse gases;

(n) Piecemeal or other uncoordinated state regulatory initiatives intended to reduce emissions of greenhouse gases may be inconsistent with subsequent congressional determinations concerning the Kyoto Protocol, and with federal legislation implementing the Kyoto Protocol;

(o) Individual state responses to the Kyoto Protocol, including development of new regulatory programs intended to reduce greenhouse gas emissions, are premature prior to Senate ratification of that Protocol, in its current or amended form, and congressional enactment of related implementing legislation.


(a) The West Virginia division of environmental protection shall refrain from proposing or promulgating any new rule intended, in whole or in part, to reduce emissions of greenhouse gases from the residential, commercial, industrial, electric utility or transportation sectors in order to comply with the Kyoto Protocol;

(b) In the absence of an act of the Legislature of the state of West Virginia approving same, the West Virginia division of environmental protection shall not submit to the United States environmental protection agency or to
any other agency of the federal government any legally
enforceable commitments related to the reduction of
greenhouse gases, as such gases are defined by the Kyoto
Protocol;
(c) Nothing in this section shall be construed to limit
or to impede state or private participation in any on-going
voluntary initiatives to reduce emissions of greenhouse
gases, including, but not limited to, the federal
environmental protection agency’s “Green Lights”
program, the federal department of energy’s climate
challenge program, and similar State and federal initiatives
relying on voluntary participation.
(d) This article shall remain in effect until repealed by
an act of the Legislature of the state of West Virginia, or
until ratification of the Kyoto Protocol by the United
States Senate and enactment of federal legislation
implementing the Kyoto Protocol.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 1st day of [handwritten date], 1998.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/24/98
Time 10:30 AM