WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000

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ENROLLED

Committee Substitute for Committee Substitute for

SENATE BILL NO. 595

(By Senator Helmick, et al.)

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PASSED March 11, 2000

In Effect ninety days 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-a, relating to legislative findings regarding the coal industry and requiring prior legislative approval of any policies developed by or rules promulgated by the division of environmental protection arising from recommendations from the United States environmental protection agency or in response to an environmental impact study participated in the year one thousand nine hundred ninety-nine.

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-a, to read as follows:

ARTICLE 23A. ENVIRONMENTAL IMPACT STATEMENT.

§22-23A-1. Findings.

1 The Legislature finds:

2 (1) The coal industry is and has been for many years an integral part of the economic and social fabric of the state;

3 (2) That whole communities in this state rely in large part, if not completely, on the coal industry for their continuing vitality;

4 (3) That over the last decade changes in the mining industry have necessitated the development of diverse mining techniques;

5 (4) The coal industry remains essential to economic growth and progress in West Virginia and the United States. Coal continues to sustain our economy and provides the financial security as future diversity and expansion of our job base is explored;

6 (5) The state of West Virginia, through the division of environmental protection, entered into an agreement on the twenty-third day of December, one thousand nine hundred ninety-eight, which imposed additional controls and oversight on the states' mine permitting process by the U. S. corps of engineers, U. S. environmental protection agency, U. S. office of surface mining and the U. S. fish and wildlife service;

7 (6) The agreement of the twenty-third day of December, one thousand nine hundred ninety-eight further autho-
rized the division of environmental protection, in conjunc-
tion with the U.S. environmental protection agency, the U.
S. fish and wildlife service, the U. S. army corps of engi-
neers and the U.S. office of surface mining to undertake a
two-year study of the effects of mountaintop mining
practices which remains incomplete as of the effective date
of this article;

(7) The state has committed significant funding and
other resources to the study;

(8) The study is unprecedented in this country in its
purpose and scope;

(9) The environmental impact statement which will be
prepared upon the completion of the study may give rise to
consideration of new or revised regulations, policies,
guidelines or requirements which are untried or untested
anywhere in this country;

(10) It is imperative that balance be sought between state
rules designed to regulate and protect the environment and
the state regulations designed to enhance the ability of the
state to continue to market West Virginia coal throughout
the nation and the world; and

(11) Requiring West Virginia, through new or amended
policies, regulations, enforcement or permitting actions to
meet requirements more stringent than those otherwise
applicable in other states by the federal government and
unnecessary for environmental protection would unfairly
affect interstate competition for new mining development
and employment opportunities.

Wherefore the Legislature finds that prior to the imple-
mentation of any recommendation arising from the study
that the Legislature has an obligation to review the same
to protect the interests of the state and the citizens.
§22-23A-2. Requiring department of environmental protection to refrain from implementing or adopting rules or making certain commitments absent legislative approval; reporting required.

(a) The division of environmental protection may not enter into any legally enforceable commitments related to the implementation of any recommendation which results from the mountaintop mining/valley fill environmental impact statement with any agency of the federal government unless the terms of the commitment are reported to the Legislature;

(b) The division of environmental protection may not adopt or modify any rule, in whole or in part, to implement a recommendation resulting from the mountaintop mining/valley fill environmental impact statement except by legislative rule promulgated pursuant to article three, chapter twenty-nine-a of this code.

(c) Within ninety days of receipt of any final recommendation from any agency of the federal government related to the mountaintop mining/valley fill environmental impact statement, the director of the West Virginia division of environmental protection shall forward such recommendation, embodied in a report, along with all scientific facts or technical evidence relating to and substantiating such recommendation, to the governor, president of the Senate and the speaker of the House of Delegates.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 29th Day of , 2000.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/20/10
Time 3:52 pm