

SB 595

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



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Committee Substitute for Committee Substitute for
SENATE BILL NO. 595

(By Senator Helmick, et al)



PASSED March 11, 2000
In Effect ninety days from Passage

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Senate Bill No. 595

(SENATORS HELMICK, FANNING, LOVE,
ANDERSON AND ROSS, *original sponsors*)

[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
3 integral part of the economic and social fabric of the state;

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

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

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

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

23 (6) The agreement of the twenty-third day of December,
24 one thousand nine hundred ninety-eight further autho-

25 rized the division of environmental protection, in conjunc-
26 tion with the U.S. environmental protection agency, the U.
27 S. fish and wildlife service, the U. S. army corps of engi-
28 neers and the U.S. office of surface mining to undertake a
29 two-year study of the effects of mountaintop mining
30 practices which remains incomplete as of the effective date
31 of this article;

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

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

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

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

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

53 Wherefore the Legislature finds that prior to the imple-
54 mentation of any recommendation arising from the study
55 that the Legislature has an obligation to review the same
56 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.

1 (a) The division of environmental protection may not
2 enter into any legally enforceable commitments related to
3 the implementation of any recommendation which results
4 from the mountaintop mining/valley fill environmental
5 impact statement with any agency of the federal govern-
6 ment unless the terms of the commitment are reported to
7 the Legislature;

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

14 (c) Within ninety days of receipt of any final recommen-
15 dation from any agency of the federal government related
16 to the mountaintop mining/valley fill environmental
17 impact statement, the director of the West Virginia
18 division of environmental protection shall forward such
19 recommendation, embodied in a report, along with all
20 scientific facts or technical evidence relating to and
21 substantiating such recommendation, to the governor,
22 president of the Senate and the speaker of the House of
23 Delegates.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *29th*
Day of *March* 2000.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/08

Time 3:52 pm