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Senate Bill No. 177

(Senator Unger, original sponsor)

[Passed March 10, 2007; to take effect ninety days from passage.]
AN ACT to amend and reenact §5B-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5B-2A-1, §5B-2A-3, §5B-2A-4, §5B-2A-5 and §5B-2A-12 of said code; to amend said code by adding thereto a new article, designated §5B-2F-1 and §5B-2F-2; to amend and reenact
§5D-1-4 of said code; to amend and reenact §5F-2-1 of said code; and to amend and reenact §22-3A-7 of said code, all relating to the creation of the Division of Energy within the Department of Commerce; charging the Division of Energy to develop energy policies; placing the Office of Coalfield Community Development within the Division of Energy; creating the position of Director of the Division of Energy; continuing and reconstituting the West Virginia Public Energy Authority; charging Director of the Division of Energy to chair and administer the functions of the Public Energy Authority; providing the director acts under the authority of the Secretary of Commerce; providing the director has authority over the Office of Coalfield Community Development and the Energy Efficiency Program of the West Virginia Development Office; providing the Public Energy Authority, the Office of Coalfield Community Development, director and other public agencies develop an energy policy and development plan and seek public input thereof; requiring submission of an energy policy and development plan to the Governor and Joint Committee on Government and Finance; setting forth matters to be addressed in the energy policy and development plan; providing that the division shall prepare an energy use database; providing that the division shall promote initiatives to enhance the nation's energy security; providing that the division shall encourage the development of energy infrastructure and strategic resources that will ensure the continuity of governmental operations in situations of emergency, inoperativeness or disaster; providing funding for the Division of Energy; and establishing a performance audit to be performed during the Department of Commerce's review.

Be it enacted by the Legislature of West Virginia:
That §5B-1-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §5B-2A-1, §5B-2A-3, §5B-2A-4, §5B-2A-5 and §5B-2A-12 of said code be amended and reenacted; that said code be amended by adding thereto a new article, designated §5B-2F-1 and §5B-2F-2; that §5D-1-4 of said code be amended and reenacted; that §5F-2-1 of said code be amended and reenacted; and that §22-3A-7 of said code be amended and reenacted, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 1. DEPARTMENT OF COMMERCE.

§5B-1-2. Agencies, boards, commissions, divisions and offices comprising the Department of Commerce.

1 The Department of Commerce consists of the following agencies, boards, commissions, divisions and offices, including all of the allied, advisory, affiliated or related entities, which are incorporated in and administered as part of the Department of Commerce:

6 (1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

8 (A) Occupational Safety and Health Review Commission provided in article three-a, chapter twenty-one of this code; and

11 (B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

14 (2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office
of Miners' Health, Safety and Training for purposes of administrative support and liaison with the office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and

(C) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this code;

(3) The West Virginia Development Office, which includes the Division of Tourism and the Tourism Commission, provided in article two, chapter five-b of this code;

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a, chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code;

(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;
(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis; and

(8) Division of Energy provided in article two-f, chapter five-b of this code.

ARTICLE 2A. OFFICE OF COALFIELD COMMUNITY DEVELOPMENT.

§5B-2A-1. Legislative findings and declaration.

The Legislature hereby finds and declares the following:

(a) Coal mining has made and continues to make significant contributions to the economy of West Virginia. These contributions include the creation of quality jobs that pay high wages and provide good benefits; the consequent stimulation and support of mining contractors, suppliers of mining equipment and services, other mining-related industries and numerous providers of goods and services that are indirectly related to coal mining and dependent upon its existence and prosperity; the generation of significant severance and other tax revenues that support important economic development, infrastructure and education initiatives in mining communities and throughout the state; the support of civic, education and service groups in mining communities; and, in the case of surface mining operations, including mountaintop mining, the creation of much-needed flat land for economic development and recreational uses.
(b) The development and increasing prominence of surface mining operations, including mountaintop mining, has brought increasingly high levels of productivity, safety and efficiency to the state's mining industry, enabling the recovery of coal that could not otherwise be mined and marketed profitably, increasing the severance tax revenues and other economic benefits described in subsection (a) of this section and ensuring the competitiveness of the state's coal industry from a national and international perspective.

(c) Where implemented, surface mining operations, particularly mountaintop mining, tend to extract most, if not all, of the recoverable coal reserves in an accelerated fashion. For a state long dependent on the employment and revenue coal mining provides, this reality should be sobering and there is no place in which the comprehension of this reality is more crucial than the coalfields of West Virginia. Long dependent primarily on mining, this area must plan for a future without coal. The state and its subdivisions have a legitimate interest in securing that future.

(d) The coal industry and those related to the extraction of mineral resources benefit from the mining of our state's coal through mining practices which impact its citizens — some in a negative way — and through practices which will extract significant portions of coal reserves in an accelerated fashion. Those industries must therefore accept a greater responsibility to help address the long-term needs of the communities and citizens impacted by their activities.

(e) Once it becomes public knowledge that a permit is being sought, the marketability of property may change
and the relative bargaining power of the parties may change with it. The potential for negative impact on those living in communities near surface mining operations may limit the options and bargaining power of the property owners.

(f) Surface mining operations, including mountaintop mining, present unique challenges to the coal mining industry and the state and its citizens, especially those living and working in communities that rely heavily upon these methods of mining. This requires that these communities, in conjunction with county commissions, state, local, county and regional development authorities, landowners and civic, community and business groups and interested citizens, develop plans related to the communities' long-term economic viability.

(g) The Division of Energy, as the state agency charged with energy policy and development activities, shall take a more active role in the long-term economic development of communities in which these mining methods are prevalent and shall establish a formal process to assist property owners in the determination of the fair market value where the property owner and the coal company voluntarily enter into an agreement relating to the purchase and sale of such property.

§5B-2A-3. Definitions.

(a) For the purpose of this article, the following terms have the meanings ascribed to them:

(1) "Department" means the Department of Environmental Protection established in article one,
chapter twenty-two of this code;

(2) "Office" means the Office of Coalfield Community Development.

(b) Unless used in a context that clearly requires a different meaning or as otherwise defined herein, terms used in this article shall have the definitions set forth in this section.

§5B-2A-4. Office of Coalfield Community Development.

(a) The Office of Coalfield Community Development is hereby established within the Division of Energy.

(b) The director of the Division of Energy may appoint a chief to administer the office, who will serve at the will and pleasure of the Director of the Division of Energy.


The office has and may exercise the following duties, powers and responsibilities:

(1) To establish a procedure for developing a community impact statement as provided in section six of this article and to administer the procedure so established;

(2) To establish a procedure for determining the assets that could be developed in and maintained by the community to foster its long-term viability as provided in section eight of this article and to administer the procedure so established;
(3) To establish a procedure for determining the land and infrastructure needs in the general area of the surface mining operations as provided in section nine of this article and to administer the procedure so established;

(4) To establish a procedure to develop action reports and annual updates as provided in section ten of this article and to administer the procedure so established;

(5) To determine the need for meetings to be held among the various interested parties in the communities impacted by surface mining operations and, when appropriate, to facilitate the meetings;

(6) To establish a procedure to assist property owners in the sale of their property as provided in section eleven of this article and to administer the procedure so established;

(7) In conjunction with the department, to maintain and operate a system to receive and address questions, concerns and complaints relating to surface mining; and

(8) On its own initiative or at the request of a community in close proximity to a mining operation, or a mining operation, offer assistance to facilitate the development of economic or community assets. Such assistance may include the preparation of a master land use plan pursuant to the provisions of section nine of this article.

§5B-2A-12. Rulemaking.

The office shall propose rules for legislative approval
in accordance with article three, chapter twenty-nine-a of this code to establish, implement and enforce the provisions of this article, which rules shall include, but not be limited to:

(1) The development of standards for establishing the value of property by the office; and

(2) Criteria for the development of a master plan by local, county, regional or redevelopment authorities which coordinates the permitting and reclamation requirements of the Department of Environmental Protection with these authorities.

ARTICLE 2F. DIVISION OF ENERGY.

§5B-2F-1. Short title.

This chapter shall be known and cited as the West Virginia Energy Policy and Development Act.

§5B-2F-2. Purpose; office of Director for Energy Development; director to be member of Public Energy Authority; division to develop energy policy and development plan; contents of energy policy and development plan; and division to promote energy initiatives.

(a) Effective the first day of July, two thousand seven, the Division of Energy is created as a state agency under the Department of Commerce. The division may receive federal funds. The division shall be administered by a director, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall continue to serve until his or her successor is appointed and qualified as provided. The
director shall be selected with special preference and consideration given to his or her training, experience, capacity and interest in energy policy and development activities.

(b) Creation of the division is intended to provide leadership for developing energy policies emphasizing the increased efficiency of energy use, the increased development and production of new and existing domestic energy sources, the increased awareness of energy use on the environment and the economy, dependable, efficient and economical statewide energy systems capable of supporting the needs of the state, increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased, reduce the ratio energy consumption to economic activity and maintain low-cost energy. The energy policies and development plans shall also provide direction for the private sector.

(c) The director shall administer the daily operations of the Public Energy Authority provided under the provisions of chapter five-d of this code. The director shall also have authority over the Office of Coalfield Community Development, created by the provisions of article two-a of this chapter, and the energy efficiency program existing under the West Virginia Development Office which are hereby transferred to the division. The director shall effectuate coordination of these entities relative to the purposes provided in this article.

(d) The division shall develop an energy policy and shall report the same back to the Governor and the Joint Committee on Government and Finance before the first day of December, two thousand seven. The energy

(41) policy shall be a five-year plan setting forth the state's energy policies and shall provide a direction for the private sector. Prior to the expiration of the energy policy, the division shall begin review of the policy and submit a revised energy policy to the Governor and the Joint Committee on Government and Finance six months before the expiration of the policy.

(e) The director shall be a member of the Public Energy Authority and as such shall attend and participate in all official meetings and public hearing conducted under the auspices of the authority.

(f) The division shall prepare and submit an annual energy development plan to the Governor and the Joint Committee on Government and Finance on or before the first day of December of each year. The development plan shall relate to the division's implementation of the energy policy and the activities of the division during the previous year. The development plan shall include any recommended legislation. The Public Energy Authority, the Office of Coalfield Community Development, the energy efficiency program, the Department of Environmental Protection and the Public Service Commission, in addition to their other duties prescribed by this code, shall assist the Division and the director in the development of an energy policy and related development plans. The energy development plan shall set forth the plans for implementing the state's energy policy and shall provide a direction for the private sector. The energy development plan shall recognize the powers of the Public Energy Authority as to development and financing of projects under its jurisdiction and shall make such recommendations as are reasonable and
practicable for the exercise of such powers.

(g) The division shall hold public hearings and meetings with notice to receive public input regarding proposed energy policies and development plans. The energy policy and development plans required by subsections (d) and (f) of this section shall address increased efficiency of energy use, traditional and alternative energy, water as a resource and a component of energy production, energy distribution systems, the siting of energy facilities, the increased development and production of new and existing domestic energy sources, increased awareness of energy use on the environment and the economy, energy infrastructure, the development and implementation of renewable, clean, technically innovative and advanced energy projects in this state. Projects may include, without limitation, solar and wind energy, low-impact hydro power, geothermal, biomass, landfill gas, fuel cells, renewable hydrogen fuel technologies, waste coal, coal minemethane, coal gasification to ultraclean fuels, solid waste to fuel grade ethanol and coal liquefaction technologies.

(h) The division may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code designed to implement an energy policy and development plan in accordance with the provisions of this chapter.

(i) The energy policy and development plans required by subsections (d) and (f) of this section shall identify and report on the energy infrastructure in this state and include without limitation energy infrastructure related to protecting the state's essential data, information
106 systems and critical government services in times of
107 emergency, inoperativeness or disaster. In consultation
108 with the Director of the Division of Homeland Security
109 and Emergency Management, the director of the
110 division shall encourage the development of energy
111 infrastructure and strategic resources that will ensure
112 the continuity of governmental operations in situations
113 of emergency, inoperativeness or disaster.

114 (j) In preparing or revising the energy policy and
115 development plan, the division may rely upon internal
116 staff reports or the advice of outside advisors or
117 consultants and may procure such services with the
118 consent of the Secretary of Commerce. The division
119 may also involve national, state and local government
120 leadership and energy experts.

121 (k) The division shall prepare an energy use database,
122 including without limitation, end-use applications and
123 infrastructure needs for different classes of energy users
124 including residential, commercial and industrial users,
125 data regarding the interdependencies and sources of
126 electricity, oil, coal, water and gas infrastructure, data
127 regarding energy use of schools and state-owned
128 facilities and collect data on the impact of the energy
129 policy and development plan on the decisions and
130 strategies of energy users of the state.

131 (l) The division shall promote collaboration between
132 the state's universities and colleges, private industry
133 and nonprofit organizations to encourage energy
134 research and leverage available federal energy research
135 and development resources.

136 (m) The division shall promote initiatives to enhance
the nation's energy security through research and
development directed at transforming the state's energy
resources into the resources that fuel the nation.

(n) The Performance Evaluation and Research
Division of the Legislative Auditor's office shall
perform an agency review of the Division of Energy in
two thousand ten as part of its review of the
Department of Commerce as set forth in article four,
chapter ten of this code.

CHAPTER 5D. PUBLIC ENERGY AUTHORITY.

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

§5D-1-4. West Virginia Public Energy Authority continued; West Virginia Public Energy Board continued; organization of authority and board; appointment of board members; term, compensation and expenses; director of authority; appointment.

(a) The West Virginia Public Energy Authority is
continued. The authority is a governmental
instrumentality of the state and a body corporate. The
exercise by the authority of the powers conferred by
this article and the carrying out of its purposes and
duties are essential governmental functions and for a
public purpose.

(b) The authority shall be controlled, managed and
operated by a seven-member board known as the West
Virginia Public Energy Authority Board, which is
continued. The seven members include the Director of
the Division of Energy or designee; the Secretary of the
Department of Environmental Protection or designee; the Director of the Economic Development Authority or designee; and four members representing the general public. The public members are appointed by the Governor, by and with the advice and consent of the Senate, for terms of one, two, three and four years, respectively.

(c) On the thirtieth day of June, two thousand seven, the terms of all appointed members shall expire. Not later than the first day of July, two thousand seven, the Governor shall appoint the public members required in subsection (b) of this section to assume the duties of the office immediately, pending the advice and consent of the Senate.

(d) The successor of each appointed member is appointed for a four-year term. A vacancy is filled by appointment by the Governor in the same manner as the original appointment. A member appointed to fill a vacancy serves for the remainder of the unexpired term. Each board member serves until a successor is appointed.

(e) No more than three of the public members may at any one time belong to the same political party. No more than two public members may be employed by or associated with any industry the authority is empowered to affect. One member shall be a person with significant experience in the advocacy of environmental protection. Board members may be reappointed to serve additional terms.

(f) All members of the board shall be citizens of the state. Before engaging in their duties, each member of
the board shall comply with the requirements of article one, chapter six of this code and give bond in the sum of twenty-five thousand dollars in the manner provided in article two of said chapter. The Governor may remove any board member as provided in section four, article six of said chapter.

(g) The Director of the Division of Energy shall serve as chair. The board annually elects one of its members as vice chair and appoints a secretary-treasurer who need not be a member of the board.

(h) Four members of the board constitute a quorum and the affirmative vote of the majority of members present at any meeting is necessary for any action taken by vote of the board. A vacancy in the membership of the board does not impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the board and the authority.

(i) The person appointed as secretary-treasurer, including a board member if so appointed, shall give bond in the sum of fifty thousand dollars in the manner provided in article two, chapter six of this code.

(j) Each public member shall be reimbursed for reasonable expenses incurred in the discharge of official duties. All expenses incurred by the board shall be paid in a manner consistent with guidelines of the Travel Management Office of the Department of Administration and are payable solely from funds of the authority or from funds appropriated for such purpose by the Legislature. Liability or obligation is not incurred by the authority beyond the extent to which moneys are available from funds of the authority or
(k) In addition to such other duties and responsibilities as may be prescribed in this code, the Director of the Division of Energy is responsible for managing and administering the daily functions of the authority and for performing all other functions necessary to the effective operation of the authority.

CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

§5F-2-1. Transfer and incorporation of agencies and boards; funds.

(a) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:

(1) Building Commission provided in article six, chapter five of this code;

(2) Public Employees Insurance Agency and Public Employees Insurance Agency Advisory Board provided in article sixteen, chapter five of this code;

(3) Governor's Mansion Advisory Committee provided in article five, chapter five-a of this code;

(4) Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of this code;
(5) West Virginia Public Employees Grievance Board provided in article three, chapter six-c of this code;

(6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-nine of this code;

(7) Boundary Commission provided in article twenty-three, chapter twenty-nine of this code;

(8) Public Defender Services provided in article twenty-one, chapter twenty-nine of this code;

(9) Division of Personnel provided in article six, chapter twenty-nine of this code;

(10) The West Virginia Ethics Commission provided in article two, chapter six-b of this code;

(11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this code; and

(12) Real Estate Division provided in article ten, chapter five-a of this code.

(b) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:

(1) Division of Labor provided in article one, chapter twenty-one of this code, which includes:

(A) Occupational Safety and Health Review
Commission provided in article three-a, chapter twenty-one of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in article nine, chapter twenty-one of this code;

(2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety and Training for purposes of administrative support and liaison with the office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in article six, chapter twenty-two-a of this code;

(B) Board of Miner Training, Education and Certification provided in article seven, chapter twenty-two-a of this code; and

(C) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this code;

(3) The West Virginia Development Office, which includes the Division of Tourism and the Tourism Commission provided in article two, chapter five-b of this code;

(4) Division of Natural Resources and Natural Resources Commission provided in article one, chapter twenty of this code;

(5) Division of Forestry provided in article one-a,
chapter nineteen of this code;

(6) Geological and Economic Survey provided in article two, chapter twenty-nine of this code; and

(7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development; and

(D) Division of Research, Information and Analysis; and

(8) Division of Energy provided in article two-f, chapter five-b of this code.

(c) The Economic Development Authority provided in article fifteen, chapter thirty-one of this code is continued as an independent agency within the executive branch.

(d) The Water Development Authority and Board provided in article one, chapter twenty-two-c of this code is continued as an independent agency within the executive branch.

(e) The following agencies and boards, including all of the allied, advisory and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the office of the Governor:
(1) Air Quality Board provided in article two, chapter twenty-two-b of this code;

(2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this code;

(3) Environmental Quality Board, or its successor board, provided in article three, chapter twenty-two-b of this code;

(4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

(5) Oil and Gas Inspectors’ Examining Board provided in article seven, chapter twenty-two-c of this code;

(6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this code; and

(7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c of this code.

(f) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Education and the Arts:

(1) Library Commission provided in article one, chapter ten of this code;

(2) Educational Broadcasting Authority provided in article five, chapter ten of this code;

(3) Division of Culture and History provided in article
one, chapter twenty-nine of this code;

(4) Division of Rehabilitation Services provided in section two, article ten-a, chapter eighteen of this code.

(g) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health and Human Resources:

(1) Human Rights Commission provided in article eleven, chapter five of this code;

(2) Division of Human Services provided in article two, chapter nine of this code;

(3) Bureau for Public Health provided in article one, chapter sixteen of this code;

(4) Office of Emergency Medical Services and Advisory Council provided in article four-c, chapter sixteen of this code;

(5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

(6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of this code;

(7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and

(8) The Child Support Enforcement Division provided in chapter forty-eight of this code.
(h) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Military Affairs and Public Safety:

(1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;

(2) Armory Board provided in article six, chapter fifteen of this code;

(3) Military Awards Board provided in article one-g, chapter fifteen of this code;

(4) West Virginia State Police provided in article two, chapter fifteen of this code;

(5) Division of Homeland Security and Emergency Management and Disaster Recovery Board provided in article five, chapter fifteen of this code and Emergency Response Commission provided in article five-a of said chapter;

(6) Sheriffs' Bureau provided in article eight, chapter fifteen of this code;

(7) Division of Corrections provided in chapter twenty-five of this code;

(8) Fire Commission provided in article three, chapter twenty-nine of this code;

(9) Regional Jail and Correctional Facility Authority provided in article twenty, chapter thirty-one of this
(10) Board of Probation and Parole provided in article twelve, chapter sixty-two of this code; and

(11) Division of Veterans' Affairs and Veterans' Council provided in article one, chapter nine-a of this code.

(i) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

(1) Tax Division provided in article one, chapter eleven of this code;

(2) Racing Commission provided in article twenty-three, chapter nineteen of this code;

(3) Lottery Commission and position of Lottery Director provided in article twenty-two, chapter twenty-nine of this code;

(4) Agency of Insurance Commissioner provided in article two, chapter thirty-three of this code;

(5) Office of Alcohol Beverage Control Commissioner provided in article sixteen, chapter eleven of this code and article two, chapter sixty of this code;

(6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-a of this code;
(7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;

(8) Division of Banking provided in article two, chapter thirty-one-a of this code;

(9) The State Budget Office provided in article two of this chapter;

(10) The Municipal Bond Commission provided in article three, chapter thirteen of this code;

(11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and

(12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this code.

(j) The following agencies and boards, including all of the allied, advisory, affiliated or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:

(1) Division of Highways provided in article two-a, chapter seventeen of this code;

(2) Parkways, Economic Development and Tourism Authority provided in article sixteen-a, chapter seventeen of this code;

(3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

(4) Driver's Licensing Advisory Board provided in
article two, chapter seventeen-b of this code;

(5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;

(6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and

(7) Port Authority provided in article sixteen-b, chapter seventeen of this code.

(k) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the position of administrator and the powers, authority and duties of each administrator and agency are not affected by the enactment of this chapter.

(l) Except for powers, authority and duties that have been delegated to the secretaries of the departments by the provisions of section two of this article, the existence, powers, authority and duties of boards and the membership, terms and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers shall not have their appellate or independent decision-making status affected by the enactment of this chapter.

(m) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in section two, article one of this chapter, the reference
(n) When an agency, board or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the office of the Governor, a department secretary or a bureau. Nothing in this section extends the powers of department secretaries under section two of this article to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 3A. OFFICE OF EXPLOSIVES AND BLASTING.

§22-3A-7. Funding.

(a) The office shall assess each operator permitted under the provisions of this chapter a fee on each quantity of explosive material used for any purpose on the surface mining operations.
cannot be increased except by legislative rule and
cannot be used to fund additional positions in the
Division of Energy in future years.

(c) The office shall deposit all moneys received from
these fees into a special revenue fund to be known as
the Moutaintop Removal Fund in the State Treasury to
be expended by the offices and the Division of Energy
in the performance of their duties. The expenditure of
moneys in the fund is not authorized from collections,
but shall be appropriated by the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

The within is approved this 6th Day of April, 2007.

Governor
PRESENTED TO THE GOVERNOR

APR 02 2007

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