

**WEST VIRGINIA LEGISLATURE**  
**2022 FOURTH EXTRAORDINARY SESSION**

**ENROLLED**  
**Senate Bill 4001**

BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN

(BY REQUEST OF THE EXECUTIVE)

[Passed September 12, 2022; in effect from passage]

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2022 SEP 13 P 3:35

FILED

SB4001

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(BY REQUEST OF THE EXECUTIVE)

[Passed September 12, 2022; in effect from passage]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §5B-2-21, relating to the establishment of the Certified Industrial Business  
3 Expansion Development Program; granting authority to the Department of Economic  
4 Development to administer the Certified Industrial Business Expansion Development  
5 Program; authorizing rule-making authority; establishing procedures for certifying high  
6 impact industrial business development districts; limiting the number of districts that can  
7 be certified by the Department of Economic Development; setting forth requirements for  
8 providing electric service within a certified high impact industrial business development  
9 district; exempting any such projects from Public Service Commission requirements if  
10 certain conditions are met; limiting the eligible electric customers able to take advantage  
11 of a certified high impact industrial business development district; authorizing the Public  
12 Service Commission to approve special rates for a certified high impact industrial business  
13 development district in certain circumstances; authorizing the Public Service Commission  
14 to approve or establish special rates for a certified high impact industrial business  
15 development district in certain circumstances; and setting forth an expiration date for the  
16 program.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.**

### **§5B-2-21. Certified Industrial Business Expansion Development Program.**

1 (a) *Program established.* — The Certified Industrial Business Expansion Development  
2 Program is hereby created and is to be administered as a program within the Department of  
3 Economic Development to encourage the continued development, construction, operation,  
4 maintenance, and expansion in West Virginia of high impact industrial plants and facilities, in  
5 certain circumstances where the availability of electricity generated from renewable sources is  
6 demonstrated to be necessary. In order to effectuate the purposes of this section, the Department  
7 of Economic Development or any agency, division, or subdivision thereof, may propose for

8 promulgation of legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.*  
9 of this code.

10 (b) *District certification.*— The Secretary of the Department of Economic Development  
11 may identify and certify high impact industrial business development districts in this state upon a  
12 finding that the following requirements are met:

13 (1) Certification of the high impact industrial business development district and location of  
14 new or expanded businesses within the district will have a significant and positive economic  
15 impact on the state;

16 (2) Certification of the high impact industrial business development district is necessary to  
17 attract at least two businesses to locate or expand in this state;

18 (3) The area to be certified as a high impact industrial business development district shall  
19 be no greater than 2,250 acres and must be located on land sold or leased by the state, its  
20 agencies, or political subdivisions as defined in §29-12A-3(c) of this code with a purpose of  
21 creating a high impact industrial business development district or on land that has been previously  
22 used for coal mining operations in the state; and

23 (4) The electricity generated from renewable sources within the district will be used within  
24 the district or delivered to the wholesale market.

25 The Secretary of the Department of Economic Development may not certify more than two  
26 high impact industrial business development districts. A designation made pursuant to this section  
27 by the secretary as to the certification of a high impact industrial business development district is  
28 final.

29 (c) *Providing electric service within a certified high impact industrial business development*  
30 *district.*— Within a high impact industrial business development district, any person, firm,  
31 corporation, or entity seeking to provide electric service through the generation of renewable  
32 sources from within the high impact industrial business development district of electricity to  
33 businesses locating within the certified high impact industrial business development district may:

34 (1) Not be subject to the jurisdiction of the Public Service Commission with respect to  
35 rates, obtaining a certificate of convenience and necessity, conditions of service or complaints  
36 pursuant to chapter 24 of this code;

37 (2) Not be subject to the net metering and interconnection standards as set forth in § 24-  
38 2F-8 of this code;

39 (3) Elect to qualify as an exempt wholesale generator under federal law for purposes of  
40 furnishing electric service through the generation of renewable sources to a utility or regional  
41 transmission organization without being subject to the Public Service Commission's siting  
42 certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-1o of this code;

43 (4) Provide any such electric service to businesses making a capital investment in a new  
44 or expanded industrial facility located within the certified high impact industrial business  
45 development district; and

46 (5) Not provide any such electric service for purposes of encouraging businesses already  
47 receiving electric service from a regulated utility in this state to relocate to the certified high impact  
48 industrial business development district.

49 (d) *Eligible electric retail customers.* — In order to take advantage of the provisions of this  
50 section, an industrial plant or facility choosing to locate and operate within a high impact industrial  
51 business development district must constitute new electric generating load. Any owner or tenant  
52 of an industrial plant or facility that has not previously received electric service from a regulated  
53 public electric utility located within this state, or who is making a capital investment in a new  
54 industrial facility within the district shall be considered eligible new electric generating load.  
55 Electric service to any such industrial plant or facility shall be considered new electric generating  
56 load so long as any customer making a new capital investment within the district does not  
57 decrease the load of an existing facility outside the district in this state in conjunction with the new  
58 capital investment within the district, and regardless of whether or not a person or entity previously  
59 received service from a public electric utility at or near the same location prior to the certification

60 of the high impact industrial business development district.

61 An eligible industrial plant or facility choosing to locate and operate within a high impact  
62 industrial business development district is not required to connect with and use any public electric  
63 utility: *Provided*, That any plant or facility choosing to do so may participate in net metering with  
64 a public electric utility without being subject to the net metering and interconnection standards set  
65 forth in §24-2F-8 of this code: *Provided, however*, That any such connection with and use of a  
66 public electric utility for purposes of the initial construction and development within the high impact  
67 industrial business development district shall not impact an industrial plant or facility's status as  
68 new electric generating load in order to take advantage of the provisions of this section.

69 (e) *Special rates.* — In furtherance of the creation of a high impact industrial business  
70 development district, the Public Service Commission may approve special electric utility rates for  
71 an eligible electric retail electric customer within the high impact industrial business development  
72 district. An eligible retail electric customer seeking to apply for a special rate shall first enter into  
73 negotiations with the utility that provides it with electric power, regarding the terms and  
74 conditions of a mutually agreeable special rate. If the negotiations result in an agreement  
75 between the eligible retail electric customer and the utility, the eligible retail electric customer and  
76 the utility shall make a joint filing with the Public Service Commission seeking approval of the  
77 proposed special rate. If the negotiations are unsuccessful, the eligible retail electric customer  
78 may file a petition with the Public Service Commission to consider establishing a special rate.  
79 The Public Service Commission shall have the authority to establish a special rate upon the filing  
80 of either a joint filing or a petition pursuant to this section.

81 (f) The provisions of this section shall expire on June 30, 2028: *Provided*, That the  
82 expiration of this section shall not affect any high impact industrial business development district  
83 previously approved by the secretary.

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

*Mark Raymond*  
.....  
Chairman, Senate Committee

*Deen Jeffrey*  
.....  
Chairman, House Committee

Originated in the Senate.

In effect from passage.

*Joe Lavin*  
.....  
Clerk of the Senate

*Steve Harrison*  
.....  
Clerk of the House of Delegates

*Cy M*  
.....  
President of the Senate

*Don Hanshaw*  
.....  
Speaker of the House of Delegates

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SECRETARY OF STATE

The within *is approved* ..... this the *13<sup>th</sup>* .....  
Day of *September* ..... 2022.

*James Justice*  
.....  
Governor

PRESENTED TO THE GOVERNOR

SEP 13 2022

Time 2:47 pm