WEST VIRGINIA LEGISLATURE

2022 FOURTH EXTRAORDINARY SESSION

ENROLLED

Senate Bill 4001



BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN

(BY REQUEST OF THE EXECUTIVE)

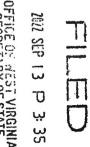
[Passed September 12, 2022; in effect from passage]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, 1 designated §5B-2-21, relating to the establishment of the Certified Industrial Business 2 3 Expansion Development Program; granting authority to the Department of Economic Development to administer the Certified Industrial Business Expansion Development 4 Program; authorizing rule-making authority; establishing procedures for certifying high 5 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 Service Commission to approve special rates for a certified high impact industrial business 12 13 development district in certain circumstances; authorizing the Public Service Commission to approve or establish special rates for a certified high impact industrial business 14 development district in certain circumstances; and setting forth an expiration date for the 15 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

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

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

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

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

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

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

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

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

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

37 (2) Not be subject to the net metering and interconnection standards as set forth in § 2438 2F-8 of this code;

(3) Elect to qualify as an exempt wholesale generator under federal law for purposes of
furnishing electric service through the generation of renewable sources to a utility or regional
transmission organization without being subject to the Public Service Commission's siting
certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-10 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 industrial facility within the district shall be considered eligible new electric generating load. 54 Electric service to any such industrial plant or facility shall be considered new electric generating 55 load so long as any customer making a new capital investment within the district does not 56 decrease the load of an existing facility outside the district in this state in conjunction with the new 57 capital investment within the district, and regardless of whether or not a person or entity previously 58 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.

An eligible industrial plant or facility choosing to locate and operate within a high impact 61 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.

Chairman, Senate Committee

Chairman, Housb ommittee

Originated in the Senate.

In effect from passage.

..... Clerk of the Senate

Clerk of the House of Delegates

..... resident of the Senate

Speaker of the House of Delegates

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Governor

PRESENTED TO THE GOVERNOR

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