

# WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

**House Bill 3036**

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 2023; in effect ninety days from passage.]

FILED

2023 MAR 29 P 1:15

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SECRETARY OF STATE

HB 3036

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1 AN ACT to amend and reenact §5B-2L-14 and §5B-2L-16 of the Code of West Virginia, 1931, as  
2 amended, all relating to the BUILD WV Act generally; removing the limit on the number of  
3 certified BUILD WV districts that may be certified in this state; and increasing the limit on  
4 aggregate sum of approved costs for all BUILD WV projects for any fiscal year.

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

**ARTICLE 2L. BUILD WV ACT.**

**§5B-2L-14. Designation of a certified district.**

1 (a) A certified BUILD WV district may be designated upon the agreement, in writing, of the  
2 following officials: the Secretary of the Department of Economic Development, the Secretary of  
3 the Department of Tourism, and the Secretary of the Department of Commerce.

4 (b) A certified district shall be designated by the identification of a municipality, attraction,  
5 landmark, or other point of interest. The certified district may extend, as determined by the  
6 designation, up to 20 square miles from that municipality, attraction, landmark, or other point of  
7 interest.

8 (c) The following criteria shall be considered when determining whether to designate a  
9 certified district:

10 (1) The housing and employment needs within the certified district;

11 (2) Whether the certified district will have a significant and positive economic impact on  
12 the state;

13 (3) Whether there is substantial and credible evidence that designating the certified district  
14 will result in one or more certified projects likely to be started and completed in a timely fashion;

15 (4) Whether the certified district will, directly or indirectly, improve the opportunities in the  
16 area where the project will be located for the successful establishment or expansion of other  
17 commercial businesses;

18 (5) Whether the certified district will, directly or indirectly, assist in the creation of additional  
19 employment opportunities in the area or assist in the filling of currently available jobs;

- 20 (6) Whether the certified district helps to diversify the local economy;
- 21 (7) Whether the certified district is consistent with the goals of this article; and
- 22 (8) Any other relevant and reasonable criteria determined by the designating officials.

23 (d) The number of districts within the state shall be determined within the discretion of the  
24 Secretary of the Department of Economic Development, the Secretary of the Department of  
25 Tourism, and the Secretary of the Department of Commerce by their agreement, subject to the  
26 \$150 million limitation on aggregate sum of approved costs for all projects for any fiscal year as  
27 set forth in §5B-2L-16(c) of this code.

28 (e) A certified district may be decertified at any time upon agreement, in writing, of the  
29 designated officials provided for in subsection (a) of this section. In no case may any BUILD WV  
30 district be certified for any time period longer than 10 calendar years, unless redesignated in the  
31 same manner as provided for designation.

32 (f) In no case may a proposed BUILD WV project be certified in any geographic area that  
33 is not a certified BUILD WV district.

34 (g) The designation made pursuant to this section as to the designation of a certified  
35 district, refusal to designate a certified district, decertification, or revocation of certification of a  
36 BUILD WV district is final.

**§5B-2L-16. Project application; evaluation standards; approval of projects.**

1 (a) Each eligible company or group of multiple party project participants that seeks  
2 certification of a proposed project as a certified BUILD WV project must file a written application  
3 for approval and certification of the project with the Department of Economic Development.

4 (b) With respect to each eligible company or group of multiple party project participants  
5 making an application to the Department of Economic Development seeking certification of a  
6 proposed project as a certified BUILD WV project the Department of Economic Development shall  
7 make inquiries and request documentation, including a completed application, from the applicant  
8 that shall include the following:

- 9 (1) A description and location of the proposed project;
- 10 (2) Capital and other anticipated expenditures for the project and the sources of funding
- 11 therefor;
- 12 (3) The anticipated employment, revenues and expenses generated by the project; and
- 13 (4) Anything else determined necessary by the Department of Economic Development.
- 14 (c) The aggregate sum of approved costs for all projects for any fiscal year shall not
- 15 exceed \$150 million. Any project application submitted for certification in the fiscal year after the
- 16 sum of \$150 million has been reached shall not be approved or certified. Notwithstanding any
- 17 other provision of this code, for any fiscal year, the Secretary of the Department of Economic
- 18 Development may not approve any single proposed project as a certified BUILD WV project for
- 19 the fiscal year unless the proposed project has an aggregate sum of approved costs that is at
- 20 least \$3 million or the proposed project includes at least six residential units or houses.
- 21 (d) The Secretary of the Department of Economic Development, within 60 days following
- 22 receipt of an application or receipt of any additional information requested by the Department of
- 23 Economic Development respecting the application, whichever is later, shall act to grant or not to
- 24 grant certification of the project, based on the following criteria:
- 25 (1) The project will have approved costs of at least \$3 million or includes at least six
- 26 residential units or houses;
- 27 (2) The project will have a significant and positive economic impact on the state;
- 28 (3) The quality of the proposed project and how it addresses economic problems in the
- 29 area in which the project will be located;
- 30 (4) Whether there is substantial and credible evidence that the project is likely to be started
- 31 and completed in a timely fashion;
- 32 (5) Whether the project will, directly or indirectly, improve the opportunities in the area
- 33 where the project will be located for the successful establishment or expansion of other
- 34 commercial businesses;

35 (6) Whether the project will, directly or indirectly, assist in the creation of additional  
36 employment opportunities in the area where the project will be located;

37 (7) Whether the project helps to diversify the local economy;

38 (8) Whether the project is consistent with the goals of this article;

39 (9) Whether the project is economically and fiscally sound using recognized business  
40 standards of finance and accounting;

41 (10) Whether the proposed project demonstrates that the project will meet the immediate  
42 future needs of the area; and

43 (11) The ability of the eligible company or group of multiple party project participants to  
44 carry out the project.

45 (e) *Exclusions.*

46 (1) In no case shall any property or space that is used, in whole or in part, as a residential  
47 timeshare, commercial timeshare, or as part of any similar arrangement, constitute certified  
48 project property, or any part thereof.

49 (2) In no case shall any property or space that is used in whole or in part as an industrial  
50 or manufacturing operation, constitute certified project property, or any part thereof.

51 (3) In no case shall any property or space that is used in whole or in part as a warehouse,  
52 distribution center, telephone call center, or telemarketing operation, constitute certified project  
53 property, or any part thereof.

54 (4) In no case shall any property or space that is used, in whole or in part, as an airport  
55 constitute certified project property, or any part thereof.

56 (5) In no case shall any property or space that is used primarily for business activity,  
57 business, or other operation or activity excluded from certification by the Department of Economic  
58 Development by rule or administrative notice, constitute certified project property, or any part  
59 thereof.

60           (f) The Department of Economic Development may establish additional criteria for  
61 consideration when evaluating and approving applications for certified BUILD WV housing  
62 projects.

63           (g) The decision by the Secretary of the Department of Economic Development as to  
64 certification of a proposed project, refusal to certify a proposed project, decertification, or  
65 revocation of certification of a project is final.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

*Steve Harris*

.....  
Clerk of the House of Delegates

*Joe Linn*

.....  
Clerk of the Senate

Originated in the House of Delegates.

In effect ninety days from passage.

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

2023 MAR 29 P 1:15

FILED

*Don Hancock*

.....  
Speaker of the House of Delegates

*Ch. P. Roberts*

.....  
President of the Senate

The within is *approved* this the *29th*  
Day of *March* ..... 2023.

*James Justice*

.....  
Governor



PRESENTED TO THE GOVERNOR

MAR 27 2023

Time 2:52pm