

STATE OF WEST VIRGINIA

EXECUTIVE DEPARTMENT

Charleston

A PROCLAMATION

By the Governor

I, **JIM JUSTICE**, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby call the West Virginia Legislature to convene in Extraordinary Session at 1:30 PM on Monday, September 12, 2022, in its chambers in the State Capitol, the City of Charleston, for the limited purpose of considering and acting upon only the following matters:

FIRST: To amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated § 5B-2-21, to provide that (a) the Certified Industrial Business Expansion Development Program is hereby created and is to be administered as a program within the Department of Economic Development to encourage the continued development, construction, operation, maintenance and expansion in West Virginia of high impact industrial plants and facilities, in certain circumstances where the availability of electricity generated from renewable sources is demonstrated to be necessary, and that in order to effectuate the purposes of this section, the Department of Economic Development or any agency, division, or subdivision thereof, may promulgate procedural rules, interpretive rules, and any legislative rules, including emergency rules, or any combination thereof in accordance with §29A-3-1 *et seq.* of this code, that (b) 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, and (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, that the Secretary of the Department of Economic Development may not certify more than two high impact industrial business development districts, and a designation made pursuant to this section by the Secretary as to the certification of a high impact industrial business development district is final, that (c) 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 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, (2) not be subject to the net metering and interconnection standards as set forth in § 24-2F-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 24-2-1o of this code, (4) provide any such electric service to businesses making a capital investment in a new or expanded industrial facility located within the certified high impact industrial business development district, and (5) not provide any such electric service for purposes of encouraging businesses already receiving electric service from a regulated utility in this state to relocate to the certified high impact industrial business development district, that (d) in order to take advantage of the provisions of this section, an industrial plant or facility choosing to locate and operate within a high impact industrial business development district must constitute new electric generating load, that any owner or tenant of an industrial plant or facility that has not previously received electric service from a regulated public electric utility located within this state, or who is making a capital investment in an expanded industrial facility that is above and beyond any regulated electric service it currently receives within the state, shall be considered eligible new electric generating load, that electric service to any such industrial plant or facility shall be considered new electric generating load regardless of whether or not a person or entity previously received service from a public electric utility at or near the same location prior to the certification of the high impact industrial business development district, that an eligible industrial plant or facility choosing to locate and operate within a high impact industrial business development district is not required to connect with and use any public electric utility: *provided*, that any plant or facility choosing to do so may participate

in net metering with a public electric utility without being subject to the net metering and interconnection standards set forth in § 24-2F-8 of this code; and *provided further*, that any such connection with and use of a public electric utility for purposes of the initial construction and development within the high impact industrial business development district shall not impact an industrial plant or facility's status as new electric generating load in order to take advantage of the provisions of this section, that (e) in furtherance of the creation of a high impact industrial business development district, the Public Service Commission may establish special electric utility rates for an eligible retail electric customer within the high impact industrial business development district if: (1) service to the eligible retail electric customer does not impose an unreasonable burden upon the regulated electric public utility or its customers and (2) the Commission determines that any such special rates are necessary or appropriate to facilitate the expansion of business operations within the high impact industrial business development district, and that (f) the provisions of this section shall expire on June 30, 2028: *provided*, That the expiration of this section shall not affect any high impact industrial business development district previously approved by the Secretary; and

SECOND: To supplement and amend Chapter 11, Acts of the Legislature, Regular Session 2022, known as the budget bill, by making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, in the amount of \$150,000,000, to the Department of Transportation, Division of Highways, fund 0620, fiscal year 2023, organization 0803, for the fiscal year ending June 30, 2023; and

THIRD: To supplement, amend, and increase existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2023, organization 0803, for the fiscal year ending June 30, 2023.

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, this Tenth Day of September, in the Year of our Lord, Two Thousand Twenty-Two, and in the One Hundred Sixtieth Year of the State.

James Justice
GOVERNOR

Mac Warner
SECRETARY OF STATE