

Senate Bill No. 616

(By Senator Unger)

[Introduced February 17, 2014; referred
to the Committee on Finance.]

A BILL to amend and reenact §5B-2F-2 of the Code of West Virginia, 1931, as amended, relating to creating the Energy Development Fund; allowing the Division of Energy to accept and use gifts, donations and contributions; and authorizing expenditures.

Be it enacted by the Legislature of West Virginia:

That §5B-2F-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2F. DIVISION OF ENERGY.

§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; division
to promote energy initiatives.**

1 (a) Effective July 1, 2007, the Division of Energy is
2 created as a state agency under the Department of Commerce.
3 The division may receive federal funds, gifts, donations or
4 contributions from individuals, organizations or corporations.
5 All moneys collected shall be deposited in a special account,
6 hereby created in the State Treasury, to be known as the
7 Energy Development Fund. Expenditures from the fund shall
8 be for increasing efficiency of energy use, increased
9 development of new and existing domestic energy sources
10 and increased energy self sufficiency and may be used to
11 establish grants to further the purposes of this section, and are
12 not authorized from collections but are to be made only in
13 accordance with appropriation by the Legislature and in
14 accordance with the provisions of article three, chapter
15 twelve of this code and upon fulfillment of the provisions of
16 article two, chapter eleven-b of this code: *Provided, That for*

17 the fiscal year ending June 30, 2015, expenditures are
18 authorized from collections rather than pursuant to
19 appropriation by the Legislature.

20 (b) The division shall be administered by a director, who
21 shall be appointed by the Governor, by and with the advice
22 and consent of the Senate, and shall continue to serve until
23 his or her successor is appointed and qualified as provided.
24 The director shall be selected with special preference and
25 consideration given to his or her training, experience,
26 capacity and interest in energy policy and development
27 activities.

28 (c) The creation of the division is intended to provide
29 leadership for developing energy policies emphasizing the
30 increased efficiency of energy use, the increased
31 development and production of new and existing domestic
32 energy sources, the increased awareness of energy use on the
33 environment and the economy, dependable, efficient and
34 economical statewide energy systems capable of supporting
35 the needs of the state, increased energy self sufficiency where

36 the ratio of indigenous to imported energy use is increased,
37 reduce the ratio energy consumption to economic activity and
38 maintain low-cost energy. The energy policies and
39 development plans shall also provide direction for the private
40 sector.

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

51 (e) The division shall develop an energy policy and shall
52 report the same back to the Governor and the Joint
53 Committee on Government and Finance before December 1,
54 2007. The energy policy shall be a five-year plan setting

55 forth the state's energy policies and shall provide a direction
56 for the private sector. Prior to the expiration of the energy
57 policy, the division shall begin review of the policy and
58 submit a revised energy policy to the Governor and the Joint
59 Committee on Government and Finance six months before
60 the expiration of the policy.

61 (f) The director shall be a member of the Public Energy
62 Authority and as such shall attend and participate in all
63 official meetings and public hearings conducted under the
64 auspices of the authority.

65 (g) The division shall prepare and submit an annual
66 energy development plan to the Governor and the Joint
67 Committee on Government and Finance on or before
68 December 1 of each year. The development plan shall relate
69 to the division's implementation of the energy policy and the
70 activities of the division during the previous year. The
71 development plan shall include any recommended legislation.
72 The Public Energy Authority, the Office of Coalfield
73 Community Development, the energy efficiency program, the

74 Department of Environmental Protection and the Public
75 Service Commission, in addition to their other duties
76 prescribed by this code, shall assist the division and the
77 director in the development of an energy policy and related
78 development plans. The energy development plan shall set
79 forth the plans for implementing the state's energy policy and
80 shall provide a direction for the private sector. The energy
81 development plan shall recognize the powers of the Public
82 Energy Authority as to development and financing of
83 projects under its jurisdiction and shall make such
84 recommendations as are reasonable and practicable for the
85 exercise of such powers.

86 (h) The division shall hold public hearings and meetings
87 with notice to receive public input regarding proposed energy
88 policies and development plans. The energy policy and
89 development plans required by subsections (d) and (f) of this
90 section shall address increased efficiency of energy use,
91 traditional and alternative energy, water as a resource and a
92 component of energy production, energy distribution

93 systems, the siting of energy facilities, the increased
94 development and production of new and existing domestic
95 energy sources, increased awareness of energy use on the
96 environment and the economy, energy infrastructure, the
97 development and implementation of renewable, clean,
98 technically innovative and advanced energy projects in this
99 state. Projects may include, without limitation, solar and
100 wind energy, low-impact hydro power, geothermal, biomass,
101 landfill gas, fuel cells, renewable hydrogen fuel technologies,
102 waste coal, coal mine methane, coal gasification to ultraclean
103 fuels, solid waste to fuel grade ethanol and coal liquefaction
104 technologies.

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

110 (j) The energy policy and development plans required by
111 subsections (d) and (f) of this section shall identify and report

112 on the energy infrastructure in this state and include without
113 limitation energy infrastructure related to protecting the
114 state's essential data, information systems and critical
115 government services in times of emergency, inoperativeness
116 or disaster. In consultation with the Director of the Division
117 of Homeland Security and Emergency Management, the
118 director of the division shall encourage the development of
119 energy infrastructure and strategic resources that will ensure
120 the continuity of governmental operations in situations of
121 emergency, inoperativeness or disaster.

122 (k) In preparing or revising the energy policy and
123 development plan, the division may rely upon internal staff
124 reports or the advice of outside advisors or consultants and
125 may procure such services with the consent of the Secretary
126 of Commerce. The division may also involve national, state
127 and local government leadership and energy experts.

128 (l) The division shall prepare an energy use database,
129 including without limitation end-use applications and
130 infrastructure needs for different classes of energy users

131 including residential, commercial and industrial users, data
132 regarding the interdependencies and sources of electricity,
133 oil, coal, water and gas infrastructure, data regarding energy
134 use of schools and state-owned facilities and collect data on
135 the impact of the energy policy and development plan on the
136 decisions and strategies of energy users of the state.

137 (m) The division shall promote collaboration between the
138 state's universities and colleges, private industry and
139 nonprofit organizations to encourage energy research and
140 leverage available federal energy research and development
141 resources.

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

146 (o) The Performance Evaluation and Research Division
147 of the Legislative Auditor's Office shall perform an agency
148 review of the Division of Energy in 2010 as part of its review

149 of the Department of Commerce as set forth in article four,
150 chapter ten of this code.

151 (p) The division shall work with the President of the
152 United States and his or her administration to develop a plan
153 that would allow West Virginia to become the leader in
154 transitioning the United States to a new energy future.

155 (q) The division is to determine the best way for West
156 Virginia to utilize its resources and any federal funding to
157 develop the technologies that are necessary for such a
158 transition.

159 (r) The division is to clearly articulate West Virginia's
160 position on an energy solution for the United States that
161 encompasses clean coal, natural gas, transtech energy
162 technologies and renewable energy technologies.

163 (s) The division shall develop and distribute an
164 informational program and policies that emphasize the
165 importance of West Virginia energy resources and their
166 positive impact on the eastern seaboard and the nation.

167 (t) The division shall monitor legal challenges to the
168 energy industries in the state and submit a report quarterly to
169 the Joint Committee on Government and Finance. The report
170 shall contain information relating to any litigation that
171 challenges any statute that could affect the production,
172 distribution and utilization of natural resources of the state.

(NOTE: The purpose of this bill is allow the Division of Energy to accept and use gifts, donations and contributions in addition to the federal funds it currently receives.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)