

H. B. 3129

(By Delegates Manypenny, Doyle, Staggers,
Brown, Fleischauer, Talbott, Kominar
and Barker)

[Introduced February 15, 2011; referred to the
Committee on Government Organization then Finance.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §24-2G-1 and §24-2G-
2, all relating to the creation and implementation of a fund
to encourage the development and use of renewable forms of
energy and energy efficiency programs, projects and
enterprises.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §24-2G-1 and §24-2G-2,
all to read as follows:

ARTICLE 2G. WEST VIRGINIA ENERGY EXPANSION FUND.

§24-2G-1. Funding.

(a) Beginning on August 31, 2011, the West Virginia Public
Service Commission is hereby authorized to require a mandatory
charge per kilowatt-hour on all electricity consumers of the state
to support the development and promotion of renewable energy and
energy efficiency projects. The charge shall be \$0.00035 per

1 kilowatt-hour in each calendar year through calendar year 2016.

2 (b) The revenues generated by the mandatory charge shall be
3 remitted to the Treasurer's Office and deposited into the West
4 Virginia Energy Expansion Trust Fund, hereinafter referred to as
5 the "Fund". The public purpose of the Fund is to generate the
6 maximum economic benefits over time from renewable energy and
7 energy efficiency for the ratepayers of the state through a
8 portfolio of initiatives and programs which advance and promote
9 increased availability, use, and affordability of renewable energy
10 and energy efficiency and that foster the formation, growth,
11 expansion and retention of renewable energy and energy efficiency
12 measures and their related enterprises, institutions, and projects
13 to serve the state.

14 **§24-2G-2. Creation and implementation of the Fund; Board of**
15 **Directors.**

16 (a) Creation of the Fund. There is hereby established a
17 separate trust fund to be known as the West Virginia Energy
18 Expansion Trust Fund. The Fund shall be held by the Treasurer's
19 Office in an account or accounts separate from other funds. All
20 amounts credited to the Fund shall be held in trust and used solely
21 for activities and expenditures consistent with the public purpose
22 of the Fund as set forth in subsection (a), section one of this
23 article.

24 (b) The Fund shall be administered by an independent nonprofit

1 organization called the West Virginia Energy Expansion Trust,
2 hereinafter referred to as the "Trust". The Trust shall facilitate
3 the development and implementation of renewable energy and energy
4 efficiency programs, projects and enterprises.

5 (c) Public interests to be advanced through the Trust's
6 actions include, but are not limited to, the following:

7 (1) Development and increased use and affordability of
8 renewable energy resources in the state;

9 (2) Stimulation of increased public and private sector
10 investment in, and competitive advantage for, renewable energy and
11 related enterprises, institutions, and projects in the state;

12 (3) Stimulation of entrepreneurial activities in these and
13 related enterprises, institutions and projects;

14 (4) Protection of the economic health of the citizens of the
15 state through mitigation of increased costs of electricity; and

16 (5) Delivery to state consumers of the benefits created by
17 increased fuel and electricity supply diversity.

18 (d) In furtherance of these public purposes and interests, the
19 Trust may expend moneys from the Fund to make grants, contracts,
20 loans, equity investments, energy production credits, bill credits,
21 and rebates to customers, to provide financial or debt service
22 obligation assistance or to take any other actions, in such forms,
23 under such terms and conditions, and pursuant to such selection
24 procedures and criteria as the Trust deems appropriate and

1 otherwise consistent with good business practices. Actions may
2 include, but are not limited to, the following:

3 (1) Growth of the renewable energy-provider industry;

4 (2) Growth of the energy efficiency and retrofitting industry;

5 (3) Growth and recruitment of the renewable energy
6 manufacturing sector;

7 (4) Use of renewable energy by electricity customers in the
8 state;

9 (5) Reduction of energy costs to the consumer via energy
10 efficiency measures and incentives;

11 (6) Public education and training regarding renewable energy
12 and energy efficiency;

13 (7) Product and market development;

14 (8) Pilot and demonstration projects and other activities
15 designed to increase the use and affordability of renewable energy
16 resources by and for state consumers; and

17 (9) Provision of financing in support of the development and
18 application of renewable energy and energy efficiency technologies
19 at all levels, including, but not limited to, commercialization
20 activities.

21 The Trust shall generally employ a preference for competitive
22 procurement. The Trust shall endeavor to leverage the full range of
23 resources, expertise and participation of other state and federal

1 agencies in the design and implementation of programs under this section.

2 (e) The Trust shall, in consultation with the Treasurer's
3 Office and an independent board of directors established pursuant
4 to subsection (i) of this section, adopt a detailed strategic plan
5 for the application of the Fund in support of the design,
6 implementation, evaluation, and assessment of a renewable energy
7 and energy efficiency program or programs for the state, subject to
8 periodic revision, that ensures the Fund is employed to provide
9 financial and nonfinancial resources to overcome barriers facing
10 renewable energy and energy efficiency enterprises, markets, and
11 projects consistent with the public purposes and interests set
12 forth in this section. The plan shall specify proposed program
13 designs and priorities. The Trust shall also develop an annual
14 program plan and operating budget for review and approval by the
15 board. In developing these plans, the Trust is authorized to
16 consult and utilize the services of other state agencies and such
17 technical assistance as the Trust deems necessary or appropriate to
18 the effective discharge of its responsibilities and duties relative
19 to the Fund.

20 (f) Subject to the approval of the board and in consultation
21 with the Treasurer's Office, investment activity of moneys from the
22 Fund may consist of the following:

23 (1) An equity fund to provide risk capital to renewable energy
24 enterprises, institutions and projects;

1 (2) A revolving loan fund to provide loans to energy
2 enterprises, manufacturers, institutions, projects, intermediaries
3 and end-users;

4 (3) A dedicated rebate fund to incentivize cost-saving energy
5 efficiency measures; and

6 (4) A market-growth assistance fund to be used to attract
7 private capital to the equity and debt funds.

8 To implement these investment activities, the Trust is
9 authorized to retain, through a bid process, a public or private
10 sector investment fund manager or managers who shall have prior
11 knowledge and experience in fund management and possess related
12 skills in renewable energy and related technologies development, to
13 direct the investment activity described herein and to seek other
14 fund cosponsors to contribute public and private capital.

15 (g) For the purposes of expenditures from the Fund, renewable
16 energy technologies eligible for assistance include the following:
17 solar photovoltaic and solar thermal electric energy; wind energy;
18 geothermal energy; fuel cells; landfill gas; waste-to-energy which
19 is a component of conventional municipal solid waste plant
20 technology; naturally flowing water and hydroelectric; low
21 emission, advanced biomass power conversion technologies; anaerobic
22 digesters, and storage and conversion technologies connected to
23 qualifying generation projects using best available technologies.

1 Such funds may also be used for appropriate joint energy efficiency
2 and renewable energy projects.

3 (h) The use by the Trust of monies to implement the provisions
4 of this section is deemed to be an essential governmental function.

5 (i) The Governor, with the advise and consent of the
6 Legislature, shall appoint a board of directors to assist and
7 oversee the division in matters related to the Fund and in its
8 management and implementation. The board shall include not more
9 than fifteen individuals with experience in matters related to the
10 general purpose and activities of the Fund and with the knowledge
11 and experience in at least one of the following areas: Electricity
12 generation and supply; economic, financial or investment consulting
13 expertise relative to the Fund; development or commercialization of
14 renewable energy resources; institutions of higher education; and
15 renewable energy and energy efficiency issues. The board further
16 shall include a member of the Treasurer's Office, a member of the
17 Public Service Commission and two members of the West Virginia
18 Legislature.

19 (j) Beginning with the fiscal year ending in 2012, the board
20 shall annually submit to the Governor and the Legislature a report
21 detailing the expenditure and investment of monies from the Fund
22 over the previous fiscal year and the ability of the Fund to meet
23 the requirements and provisions of this section and any

1 recommendations for improving the ability of the board, the Trust
2 and the Fund to meet the requirements and provisions herein.

NOTE: The purpose of this bill is to create and implement a fund to encourage the development and use of renewable forms of energy and energy efficiency programs, projects and enterprises.

This article is new; therefore, it has been completely underscored.