

1 **Senate Bill No. 616**

2 (By Senator Unger)

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4 [Introduced February 17, 2014; referred to the Committee on  
5 Finance.]  
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10 A BILL to amend and reenact §5B-2F-2 of the Code of West Virginia,  
11 1931, as amended, relating to creating the Energy Development  
12 Fund; allowing the Division of Energy to accept and use gifts,  
13 donations and contributions; and authorizing expenditures.

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

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

17 **ARTICLE 2F. DIVISION OF ENERGY.**

18 **§5B-2F-2. Purpose; Office of Director for Energy Development;**  
19 **director to be member of Public Energy Authority;**  
20 **division to develop energy policy and development**  
21 **plan; contents of energy policy and development plan;**  
22 **division to promote energy initiatives.**

1 (a) Effective July 1, 2007, the Division of Energy is created  
2 as a state agency under the Department of Commerce. The division  
3 may receive federal funds, gifts, donations or contributions from  
4 individuals, organizations or corporations. All moneys collected  
5 shall be deposited in a special account, hereby created in the  
6 State Treasury, to be known as the Energy Development Fund.  
7 Expenditures from the fund shall be for increasing efficiency of  
8 energy use, increased development of new and existing domestic  
9 energy sources and increased energy self sufficiency and may be  
10 used to establish grants to further the purposes of this section,  
11 and are not authorized from collections but are to be made only in  
12 accordance with appropriation by the Legislature and in accordance  
13 with the provisions of article three, chapter twelve of this code  
14 and upon fulfillment of the provisions of article two, chapter  
15 eleven-b of this code: *Provided*, That for the fiscal year ending  
16 June 30, 2015, expenditures are authorized from collections rather  
17 than pursuant to appropriation by the Legislature.

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

1 policy and development activities.

2 (c) The creation of the division is intended to provide  
3 leadership for developing energy policies emphasizing the increased  
4 efficiency of energy use, the increased development and production  
5 of new and existing domestic energy sources, the increased  
6 awareness of energy use on the environment and the economy,  
7 dependable, efficient and economical statewide energy systems  
8 capable of supporting the needs of the state, increased energy self  
9 sufficiency where the ratio of indigenous to imported energy use is  
10 increased, reduce the ratio energy consumption to economic activity  
11 and maintain low-cost energy. The energy policies and development  
12 plans shall also provide direction for the private sector.

13 (d) The director shall administer the daily operations of the  
14 Public Energy Authority provided under the provisions of chapter  
15 five-d of this code. The director shall also have authority over  
16 the Office of Coalfield Community Development, created by the  
17 provisions of article two-a of this chapter, and the energy  
18 efficiency program existing under the West Virginia Development  
19 Office which are hereby transferred to the division. The director  
20 shall effectuate coordination of these entities relative to the  
21 purposes provided in this article.

22 (e) The division shall develop an energy policy and shall  
23 report the same back to the Governor and the Joint Committee on

1 Government and Finance before December 1, 2007. The energy policy  
2 shall be a five-year plan setting forth the state's energy policies  
3 and shall provide a direction for the private sector. Prior to the  
4 expiration of the energy policy, the division shall begin review of  
5 the policy and submit a revised energy policy to the Governor and  
6 the Joint Committee on Government and Finance six months before the  
7 expiration of the policy.

8 (f) The director shall be a member of the Public Energy  
9 Authority and as such shall attend and participate in all official  
10 meetings and public hearings conducted under the auspices of the  
11 authority.

12 (g) The division shall prepare and submit an annual energy  
13 development plan to the Governor and the Joint Committee on  
14 Government and Finance on or before December 1 of each year. The  
15 development plan shall relate to the division's implementation of  
16 the energy policy and the activities of the division during the  
17 previous year. The development plan shall include any recommended  
18 legislation. The Public Energy Authority, the Office of Coalfield  
19 Community Development, the energy efficiency program, the  
20 Department of Environmental Protection and the Public Service  
21 Commission, in addition to their other duties prescribed by this  
22 code, shall assist the division and the director in the development  
23 of an energy policy and related development plans. The energy

1 development plan shall set forth the plans for implementing the  
2 state's energy policy and shall provide a direction for the private  
3 sector. The energy development plan shall recognize the powers of  
4 the Public Energy Authority as to development and financing of  
5 projects under its jurisdiction and shall make such recommendations  
6 as are reasonable and practicable for the exercise of such powers.

7 (h) The division shall hold public hearings and meetings with  
8 notice to receive public input regarding proposed energy policies  
9 and development plans. The energy policy and development plans  
10 required by subsections (d) and (f) of this section shall address  
11 increased efficiency of energy use, traditional and alternative  
12 energy, water as a resource and a component of energy production,  
13 energy distribution systems, the siting of energy facilities, the  
14 increased development and production of new and existing domestic  
15 energy sources, increased awareness of energy use on the  
16 environment and the economy, energy infrastructure, the development  
17 and implementation of renewable, clean, technically innovative and  
18 advanced energy projects in this state. Projects may include,  
19 without limitation, solar and wind energy, low-impact hydro power,  
20 geothermal, biomass, landfill gas, fuel cells, renewable hydrogen  
21 fuel technologies, waste coal, coal mine methane, coal gasification  
22 to ultraclean fuels, solid waste to fuel grade ethanol and coal  
23 liquefaction technologies.

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

5 (j) The energy policy and development plans required by  
6 subsections (d) and (f) of this section shall identify and report  
7 on the energy infrastructure in this state and include without  
8 limitation energy infrastructure related to protecting the state's  
9 essential data, information systems and critical government  
10 services in times of emergency, inoperativeness or disaster. In  
11 consultation with the Director of the Division of Homeland Security  
12 and Emergency Management, the director of the division shall  
13 encourage the development of energy infrastructure and strategic  
14 resources that will ensure the continuity of governmental  
15 operations in situations of emergency, inoperativeness or disaster.

16 (k) In preparing or revising the energy policy and development  
17 plan, the division may rely upon internal staff reports or the  
18 advice of outside advisors or consultants and may procure such  
19 services with the consent of the Secretary of Commerce. The  
20 division may also involve national, state and local government  
21 leadership and energy experts.

22 (l) The division shall prepare an energy use database,  
23 including without limitation end-use applications and

1 infrastructure needs for different classes of energy users  
2 including residential, commercial and industrial users, data  
3 regarding the interdependencies and sources of electricity, oil,  
4 coal, water and gas infrastructure, data regarding energy use of  
5 schools and state-owned facilities and collect data on the impact  
6 of the energy policy and development plan on the decisions and  
7 strategies of energy users of the state.

8 (m) The division shall promote collaboration between the  
9 state's universities and colleges, private industry and nonprofit  
10 organizations to encourage energy research and leverage available  
11 federal energy research and development resources.

12 (n) The division shall promote initiatives to enhance the  
13 nation's energy security through research and development directed  
14 at transforming the state's energy resources into the resources  
15 that fuel the nation.

16 (o) The Performance Evaluation and Research Division of the  
17 Legislative Auditor's Office shall perform an agency review of the  
18 Division of Energy in 2010 as part of its review of the Department  
19 of Commerce as set forth in article four, chapter ten of this code.

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

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

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

8 (s) The division shall develop and distribute an informational  
9 program and policies that emphasize the importance of West Virginia  
10 energy resources and their positive impact on the eastern seaboard  
11 and the nation.

12 (t) The division shall monitor legal challenges to the energy  
13 industries in the state and submit a report quarterly to the Joint  
14 Committee on Government and Finance. The report shall contain  
15 information relating to any litigation that challenges any statute  
16 that could affect the production, distribution and utilization of  
17 natural resources of the state.

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(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.)