

NATIONAL RENEWABLE ENERGY DEVELOPMENT AGENCY (ESTABLISHMENT), BILL 2021 (HB. 1241)

The bill seeks to establish the National Renewable Energy Development Agency (the “Agency”), charged with the responsibility of promoting the use of renewable energy resources - including hybrid systems - to achieve greater energy self-reliance and thereby reduce the exposure to fossil fuel price fluctuations, reduce harmful emissions, and promote economic growth and protection of the environment in Nigeria.

The bill is in response to the need for Nigeria to adopt other sources of energy due to a worldwide shift from fossil fuel to cleaner renewable energy. Consequently, the legislator deem it expedient to reform the national approach to energy generation by implementing a national policy geared towards harnessing renewable energy options.

The major proposals contained in the bill are as follows:

- a. Establishment of the National Renewable Energy Development Agency, its structure, responsibilities and powers (*Clauses 1, 2, 3 & 4 of the bill*);
- b. Establishment of the Renewable Energy Fund (“the Fund”), its sources and uses (*Clauses 5 & 6 of the bill*); and
- c. Definition of the terms used in the bill (*Clause 11 of the bill*).

Regarding the structure of the Agency, the bill provides that the Agency shall consist of the following departments: Energy Information System (including Library and Computer Services); Energy Planning and Analysis (including Energy Efficiency Demand Management and Conservation, Rural Energy; Training and Manpower Development; Administration and Finance; and such other departments as may be approved by the Ministry of Science. (*Clause 1*).

In addition, the bill sets out the responsibilities of the Agency. Some of these responsibilities include but are not limited to the following; recommend national targets for the use of renewable energy resources; conduct an impact assessment of the use of biomass for energy purposes; promote the implementation of educational programmes within the renewable energy sector and undertake, encourage the development of technical and standard requirements and certification of renewable energy installations for renewable energy systems establish and manage a registry to monitor renewable energy facilities and such reporting duties as may be required. (*Clause 2*)

Notwithstanding the responsibilities of the Agency proposed by the bill, it is important to note the existence of other policy initiatives which outline the government's programs and measures for deploying renewable energy and energy efficiency technologies and practices toward facilitating Nigeria's green transition. Additionally, the Energy Efficiency Policy (EEP) implemented through the National Renewable Energy Action Plan (NREAP), 2016 (2015-2030), which seeks to guide the development of future renewable energy and energy efficiency-related sectorial policies, as well as the national action plans to achieve renewable energy and energy efficiency targets.

In this regard, it is not immediately clear how, should the bill be enacted in its present form, the aforementioned policies will be affected by the mandate of the Agency.

The bill further establishes the technical arm of the Agency known as the Technical Advisory Committee (the Committee) and its composition. Although it is commendable that the bill proposes that the membership of the Committee is to be drawn from a wide body of stakeholders, it is important that the functions and statutory role of the Committee be clearly stated for regulatory certainty. (*Clauses 3 & 4*)

The bill also establishes the Renewable Energy Fund and proposes that the Agency utilizes the Fund as a financial tool to manage and operate national renewable energy activities and projects. *(Clause 5)* Specifically, the Fund shall be applied towards:

- a. the promotion, development, sustainable management and utilization of renewable energy sources;
- b. the provision of financial incentives, capital subsidies, production-based subsidies and equity participation for –
 - i. grid-interactive renewable electricity;
 - ii. mini-grid and off-grid renewable power systems for remote areas and islands;
 - iii. renewable energy projects for non-electricity purposes; and
 - iv. any other renewable energy activity that the Agency may determine;
- c. the promotion of renewable energy projects especially community-based projects;
- d. the promotion of renewable energy for industrial use;
- e. scientific, technological and innovative research into renewable energy;
- f. the production or fabrication of equipment for the development and utilization of renewable energy in the country;
- g. programmes to adopt international best practices and innovative approaches to the development and utilization of renewable energy sources;
- h. the development of infrastructure for renewable energy; and
- i. capacity building for renewable energy development.

Furthermore, the bill proposes the various sources of the Fund shall be as follows: moneys appropriated by the National Assembly; registration fees of individuals and organisations involved in renewable energy for commercial gains; donations, grants and gifts received for renewable energy activities; moneys generated by the Agency from the provision of services for renewable energy activities; moneys generated by the Agency from the licenses issued to Independent Power Producer`s utilizing renewable energy resources for electricity generation, including solar energy; and any levy that may be introduced by the Government. *(Clause 6)*

In this regard, it is pertinent to note that the requirement to pay registration fee and/or obtain a licence may apply to all companies engaged in renewable energy related projects.

In its interpretation clause, the bill proposes to define various terms such as aerothermal energy, hydrothermal, hydropower, hybrid systems, grid, biofuels, biogas, geothermal energy etc. in addition to the terms provided for in the Electric Power Sector Reform Act (EPSRA) 2005. *(Clause 11)*

In conclusion, the Agency and the Committee may exercise some regulatory oversight over companies involved in renewable energy projects and operations. In addition, these companies may also be liable to contribute to the Fund by paying for registration fees and/or obtaining licenses for renewable energy operations it conducts.

Lastly, from an enforcement perspective, two issues arise. First, there is the risk that the powers of the Agency may conflict with the powers of the Nigerian Electricity Regulatory Commission (NERC), the power sector regulator. Secondly, the supervising minister under the EPSRA 2005 is the Minister of Power while the Minister of Science and Technology is proposed under the bill as the as supervising minister. These two issues are likely to create uncertainty and additional regulatory compliance costs for

those over which the Agency and NERC, or the Minister of Power and the Minister of Science and Technology as the case may be, have jurisdictional oversight.

The bill went through second reading at the House of Representatives on 6 May 2021 and was subsequently referred to the House Committee on Power.