

023024564

SENATE BILL NO. 377

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend the Code of Virginia by adding sections numbered 58.1-608.1:1 and 58.1-2423.2, by adding in Title 59.1 a chapter numbered 22.5, consisting of sections numbered 59.1-284.20, 59.1-284.21, and 59.1-284.22, and by adding in Title 59.1 a chapter numbered 22.6, consisting of sections numbered 59.1-284.30, 59.1-284.31, and 59.1-284.32, relating to grants and tax refunds for purchasing or using energy efficient goods or producing electricity from certain qualified energy resources.

Patron—Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 58.1-608.1:1 and 58.1-2423.2, by adding in Title 59.1 a chapter numbered 22.5, consisting of sections numbered 59.1-284.20, 59.1-284.21, and 59.1-284.22, and by adding in Title 59.1 a chapter numbered 22.6, consisting of sections numbered 59.1-284.30, 59.1-284.31, and 59.1-284.32, as follows:

§ 58.1-608.1:1. Refund authorized for certain energy-efficient property.

A. Any organization or person may apply to the Department of Taxation for a refund of a portion of the taxes imposed by this chapter or pursuant to the authority granted in § 58.1-605 or § 58.1-606 that are paid by such organization or person on or after January 1, 2003, on the following tangible personal property:

1. Clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the United States Environmental Protection agency and the United States Department of Energy;

2. A fuel cell that (i) generates electricity and heat using an electrochemical process, (ii) has an electricity-only generation efficiency greater than thirty-five percent, and (iii) has a generating capacity of at least two kilowatts;

3. A natural gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling;

4. An electric heat pump hot water heater that yields an energy factor of at least 1.7;

5. An electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0;

6. A central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; and

7. An advanced natural gas water heater that has an energy factor of at least 0.65.

B. The Department of Taxation may require that such organization or person submit sales tax receipts along with the refund application to qualify for the refund authorized pursuant to this section. The refund application shall be filed with the Department of Taxation within one year from the date on which such taxes were paid.

C. The refund provided under this section for each item of tangible personal property included in subsection A shall equal the amount of tax paid by such organization or person for such item, up to a maximum of \$500 in tax paid for the item, as such tax is imposed under the provisions of this chapter, including any tax imposed pursuant to the authority granted in § 58.1-605 or § 58.1-606. In addition, for each of the items listed in subdivisions A. 1. through A. 7., no organization or person shall receive more than \$5,000 in refunds for such items in any calendar year. The refund provided under this section shall be applicable to purchases of such items made on or after January 1, 2003, but prior to January 1, 2007.

D. The amount of such refund attributable to the tax authorized under §§ 58.1-605 or 58.1-606 shall be deducted from the respective locality's share of the net revenue distributable pursuant to subsection C of § 58.1-638. Such deduction from a locality's share of the net revenue distributable shall occur in the month following the month in which such refund has been issued.

E. The provisions of this section shall not apply to any organization or person to the extent that such organization or person already is exempt from the taxes imposed on tangible personal property by this chapter or pursuant to the authority granted in §§ 58.1-605 or 58.1-606.

§ 58.1-2423.2. Refund for motor vehicles using clean special fuels.

A. If a motor vehicle is (i) manufactured to use clean special fuels, as defined in § 46.2-749.3, and uses such fuels as a source of propulsion; (ii) converted or retrofitted to use such clean special fuels

INTRODUCED

SB377

59 within 180 days after the date of titling in the Commonwealth, and uses such fuels as a source of
60 propulsion; or (iii) a hybrid gasoline/electric powered motor vehicle that is propelled primarily by
61 electric charge, the vehicle owner may apply, on or after January 1, 2003, for a refund of a portion of
62 the motor vehicle sales and use tax paid by such person pursuant to subdivisions 1., 2., 3., or 5. of
63 subsection A of § 58.1-2402. In no event shall a refund be paid for such tax on a mobile office, or on a
64 manufactured home as defined in § 36-85.3.

65 B. The refund provided under this section for the eligible motor vehicles described in subsection A
66 shall equal one-half of the motor vehicle sales and use tax paid by the vehicle owner pursuant to
67 subdivisions 1., 2., 3., or 5. of subsection A of § 58.1-2402, up to a maximum of \$500 in tax paid on
68 each such motor vehicle. In addition, no person shall receive more than \$5,000 in refunds in any
69 calendar year under this section. The refund provided under this section shall be applicable to such
70 motor vehicle sales and use taxes paid by vehicle owners on or after January 1, 2003, but prior to
71 January 1, 2007.

72 C. The claim for refund shall be in such form as the Commissioner shall prescribe and shall include
73 documentation to verify that the conversion or retrofitting of the motor vehicle to use such clean special
74 fuels, if applicable, took place within 180 days after the date of titling in the Commonwealth. The claim
75 for refund shall be filed with the Commissioner within one year from the date on which such taxes were
76 paid.

77 CHAPTER 22.5.

78 RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM.

79 § 59.1-284.20. Definitions.

80 A. As used in this chapter, unless the context clearly requires otherwise:

81 "Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of
82 Chapter 3 of Title 58.1.

83 "Department" means the Department of Mines, Minerals and Energy.

84 "Fund" means the Renewable Electricity Production Grant Fund.

85 "Qualified energy resources" means the same as that term is defined by Internal Revenue Code § 45.

86 "Qualified Virginia facility" means a facility located in the Commonwealth that uses qualified energy
87 resources to produce electricity.

88 B. Subject to appropriation of sufficient moneys in the Fund, an eligible corporation may receive a
89 grant payable from the Fund for certain kilowatts of electricity produced after December 31, 2001. The
90 grant amount shall be 0.85 cents for each kilowatt of electricity (i) produced by the corporation from
91 qualified energy resources at a qualified Virginia facility and (ii) sold in a calendar year. Grant
92 amounts shall be based on each such kilowatt of electricity sold beginning with calendar year 2002 and
93 ending with such kilowatts of electricity sold during calendar year 2006.

94 § 59.1-284.21. Renewable Electricity Production Grant Fund.

95 A. There is hereby established in the state treasury a special nonreverting fund to be known as the
96 Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be
97 appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the
98 Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to
99 the general fund but shall remain in the Fund and be available for allocation under this chapter in
100 ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it.
101 The Fund shall be used solely for the payment of the grants provided under this chapter. The
102 Department shall administer the Fund.

103 B. The Department shall allocate moneys from the Fund in the following order of priority: (i) first to
104 unpaid grant amounts carried forward from prior years because eligible corporations did not receive
105 the full amount of any grant to which they were eligible in a prior year pursuant to this chapter and (ii)
106 then to other approved applicants. If the moneys in the Fund are less than the amount of grants to
107 which approved applicants in any class of priority are eligible, the moneys in the Fund shall be
108 apportioned pro rata among eligible applicants in such class, based upon the amount of the grant to
109 which an approved applicant is eligible and the amount of money in the Fund available for allocation
110 to such class.

111 The Department may not allocate an amount in excess of the moneys available in the Fund for the
112 payment of grants.

113 C. Beginning in calendar year 2003, by June 30 of each year, the Department shall (i) determine the
114 amount of the grants to be allocated to eligible corporations, and (ii) certify to the Comptroller and
115 each eligible corporation the amount of the grant allocated to such corporation. Payment of such grants
116 shall be made by the State Treasurer on warrant of the Comptroller within sixty days of such
117 certification.

118 D. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any
119 year pursuant to this chapter, such corporation shall not be eligible for the deficiency in that year, but
120 the unpaid portion of the grant to which it was eligible shall be carried forward by the Department to

the following year, during which it shall be in the first class of priority as provided in clause (i) of subsection B.

E. In no case shall the Department certify grants from the Fund for kilowatts of electricity produced prior to January 1, 2002 or sold after December 31, 2006.

F. Actions of the Department relating to the allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B. 4. of § 2.2-4002.

§ 59.1-284.22. Requirements for grants generally.

A. The Department shall establish an application process by which eligible corporations shall apply for a grant under this chapter. An application for a grant under this chapter shall not be approved until the Department has verified that the electricity has been produced from qualified energy resources at a qualified Virginia facility.

The application shall be filed with the director of the Department no later than March 31 each year following the calendar year in which such kilowatts of electricity were sold. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such kilowatts of electricity sold in the prior calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

B. The application shall provide evidence, satisfactory to the Department, of the number of kilowatts of electricity produced by the corporation from qualified energy resources at a qualified Virginia facility that were sold by such corporation in the prior calendar year.

C. As a condition of receipt of a grant, an eligible corporation shall make available to the Department for inspection upon request all relevant and applicable documents to determine whether the requirements for the receipt of grants as set forth in this chapter have been satisfied. All such documents appropriately identified by the eligible corporation shall be considered confidential and proprietary.

D. A corporation receiving a grant for the production and sale of kilowatts of electricity under this chapter may not use the production or sale of such kilowatts of electricity as the basis for claiming any other grant or credit against taxes, as provided under the Code of Virginia or in an appropriations act.

CHAPTER 22.6.

PHOTOVOLTAIC, SOLAR, AND WIND ENERGY UTILIZATION GRANT PROGRAM.

§ 59.1-284.30. Definitions.

A. As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of Mines, Minerals and Energy.

"Fund" means the Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.

"Individual" means the same as that term is defined in § 58.1-302.

"Photovoltaic property" means solar energy property that uses a solar photovoltaic process to generate electricity and that meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Solar energy property" means equipment that uses solar energy (i) to generate electricity, (ii) to heat or cool a structure or provide hot water for use in a structure, or (iii) to provide solar process heat. Solar energy property does not include a swimming pool, hot tub, or any other storage medium that has a function other than storage.

"Solar water heating property" means solar energy property that, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within the structure and meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of not more than ten kilowatts, (ii) uses as its total source of fuel wind, (iii) is located on the individual's or corporation's premises, and (iv) is intended primarily to offset all or part of the individual's or corporation's own electricity requirements.

B. Subject to appropriation of sufficient moneys in the Fund, beginning with calendar year 2002 through, and including, calendar year 2006, an eligible individual or corporation may receive a grant payable from the Fund for a portion of the cost of photovoltaic property, solar water heating property, or wind-powered electrical generators placed in service during the calendar year by such individual or corporation. The grant amount shall be fifteen percent of the total installed cost of photovoltaic property, solar water heating property, or wind-powered electrical generators but shall not exceed an aggregate total of:

1. \$2,000 for each system of photovoltaic property;
2. \$1,000 for each system of solar water heating property; and
3. \$1,000 for each system of wind-powered electrical generators.

182 *Persons or entities placing in service photovoltaic property, solar water heating property, or*
183 *wind-powered electrical generators for or on behalf of another person or entity shall not be eligible to*
184 *receive a grant for such property.*

185 *§ 59.1-284.31. Photovoltaic, Solar, and Wind Energy Utilization Grant Fund.*

186 *A. There is hereby established in the state treasury a special nonreverting fund to be known as the*
187 *Photovoltaic, Solar, and Wind Energy Utilization Grant Fund. The Fund shall consist of such moneys as*
188 *may be appropriated by the General Assembly from time to time. Any moneys deposited to or remaining*
189 *in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not*
190 *revert to the general fund but shall remain in the Fund and be available for allocation under this*
191 *chapter in ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be*
192 *credited to it. The Fund shall be used solely for the payment of the grants provided under this chapter.*
193 *The Department shall administer the Fund.*

194 *B. The Department shall allocate moneys from the Fund in the following order of priority: (i) first to*
195 *unpaid grant amounts carried forward from prior years because eligible individuals or corporations did*
196 *not receive the full amount of any grant to which they were eligible in a prior year pursuant to this*
197 *chapter and (ii) then to other approved applicants. If the moneys in the Fund are less than the amount*
198 *of grants to which approved applicants in any class of priority are eligible, the moneys in the Fund*
199 *shall be apportioned pro rata among eligible applicants in such class, based upon the amount of the*
200 *grant to which an approved applicant is eligible and the amount of money in the Fund available for*
201 *allocation to such class.*

202 *The Department may not allocate an amount in excess of the moneys available in the Fund for the*
203 *payment of grants.*

204 *C. Beginning in calendar year 2003, by June 30 of each year, the Department shall (i) determine the*
205 *amount of the grants to be allocated to eligible individuals and corporations, and (ii) certify to the*
206 *Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant.*
207 *Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within sixty*
208 *days of such certification.*

209 *D. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any*
210 *year pursuant to this chapter, such individual or corporation shall not be eligible for the deficiency in*
211 *that year, but the unpaid portion of the grant to which it was eligible shall be carried forward by the*
212 *Department to the following year, during which it shall be in the first class of priority as provided in*
213 *clause (i) of subsection B.*

214 *E. In no case shall the Department certify grants from the Fund for photovoltaic property, solar*
215 *water heating property, or wind-powered electrical generators placed in service (i) prior to January 1,*
216 *2002, or (ii) after December 31, 2006.*

217 *F. Actions of the Department relating to the allocation and awarding of grants shall be exempt from*
218 *the provisions of the Administrative Process Act pursuant to subdivision B. 4. of § 2.2-4002.*

219 *§ 59.1-284.32. Requirements for grants generally.*

220 *A. The Department shall establish an application process by which eligible individuals and*
221 *corporations shall apply for a grant under this chapter. The application shall be filed with the director*
222 *of the Department no later than March 31 each year following the calendar year in which such*
223 *property was placed in service. Failure to meet the filing deadline shall render the applicant ineligible*
224 *to receive a grant for photovoltaic property, solar water heating property, or wind-powered electrical*
225 *generators placed in service in the prior calendar year. For filings by mail, the postmark cancellation*
226 *shall govern the date of the filing determination.*

227 *B. The application shall provide evidence, satisfactory to the Department, of the total installed cost*
228 *of each system of photovoltaic property, solar water heating property, or wind-powered electrical*
229 *generators placed in service by such individual or corporation in the prior calendar year.*

230 *C. As a condition of receipt of a grant, an eligible individual or corporation shall make available to*
231 *the Department for inspection upon request all relevant and applicable documents to determine whether*
232 *the requirements for the receipt of grants as set forth in this chapter have been satisfied.*

233 *D. An individual or corporation receiving a grant pursuant to this chapter for a system of*
234 *photovoltaic property, solar water heating property, or wind-powered electrical generators may not use*
235 *such system as the basis for claiming any other grant or credit against taxes, as provided under the*
236 *Code of Virginia or in an appropriations act.*

237 **2. That the provisions of this act relating to refunds of state and local retail sales and use taxes**
238 **and motor vehicle sales and use taxes shall not apply to any taxable transaction occurring prior to**
239 **January 1, 2003.**

240 **3. That the Tax Commissioner, the Commissioner of the Department of Motor Vehicles, and the**
241 **Director of the Department of Mines, Minerals and Energy shall promulgate regulations, in**
242 **accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for purposes of carrying out**
243 **the provisions of this act.**

244 4. That the Tax Commissioner, the Commissioner of the Department of Motor Vehicles, and the
245 Director of the Department of Mines, Minerals and Energy, in consultation with manufacturers,
246 retailers, local government officials and other interested groups, shall develop voluntary labeling
247 and public information materials to identify products eligible for the tax refunds provided under
248 this act.

INTRODUCED

SB377