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**HOUSE BILL NO. 3031****AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Counties, Cities and Towns  
on February 3, 2007)

(Patron Prior to Substitute—Delegate Marshall, R.G.)

*A BILL to amend and reenact §§ 15.2-2204, 15.2-2223, as is currently effective and as shall become effective, 15.2-2224, and 56-46.1 of the Code of Virginia, relating to approval of transmission lines.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-2204, 15.2-2223, as is currently effective and as shall become effective, 15.2-2224, and 56-46.1 of the Code of Virginia are amended and reenacted as follows:**

§ 15.2-2204. Advertisement of plans, ordinances, etc.; joint public hearings; written notice of certain amendments.

A. Plans or ordinances, or amendments thereof, recommended or adopted under the powers conferred by this chapter need not be advertised in full, but may be advertised by reference. Every such advertisement shall contain a descriptive summary of the proposed action and a reference to the place or places within the locality where copies of the proposed plans, ordinances or amendments may be examined.

The local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality; however, the notice for both the local planning commission and the governing body may be published concurrently. The notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than five days nor more than 21 days after the second advertisement appears in such newspaper. The local planning commission and governing body may hold a joint public hearing after public notice as set forth hereinabove. If a joint hearing is held, then public notice as set forth above need be given only by the governing body. The term "two successive weeks" as used in this paragraph shall mean that such notice shall be published at least twice in such newspaper with not less than six days elapsing between the first and second publication. After enactment of any plan, ordinance or amendment, further publication thereof shall not be required.

B. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of 25 or fewer parcels of land, then, in addition to the advertising as above required, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner or owners, their agent or the occupant, of each parcel involved; to the owners, their agent or the occupant, of all abutting property and property immediately across the street or road from the property affected, including those parcels which lie in other localities of the Commonwealth; and, if any portion of the affected property is within a planned unit development, then to such incorporated property owner's associations within the planned unit development that have members owning property located within 2,000 feet of the affected property as may be required by the commission or its agent. Notice sent by registered or certified mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement. If the hearing is continued, notice shall be remailed. Costs of any notice required under this chapter shall be taxed to the applicant.

When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 parcels of land, or a change to the applicable zoning ordinance text regulations that decreases the allowed dwelling unit density of any parcel of land, then, in addition to the advertising as above required, written notice shall be given by the local planning commission, or its representative, at least five days before the hearing to the owner, owners, or their agent of each parcel of land involved, provided, however, that written notice of such changes to zoning ordinance text regulations shall not have to be mailed to the owner, owners, or their agent of lots shown on a subdivision plat approved and recorded pursuant to the provisions of Article 6 (§ 15.2-2240 et seq.) of this chapter where such lots are less than 11,500 square feet. One notice sent by first class mail to the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this subsection shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the local commission to give written notice to the owner, owners or their agent of any parcel involved.

The governing body may provide that, in the case of a condominium or a cooperative, the written

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60 notice may be mailed to the unit owners' association or proprietary lessees' association, respectively, in  
61 lieu of each individual unit owner.

62 Whenever the notices required hereby are sent by an agency, department or division of the local  
63 governing body, or their representative, such notices may be sent by first class mail; however, a  
64 representative of such agency, department or division shall make affidavit that such mailings have been  
65 made and file such affidavit with the papers in the case.

66 A party's actual notice of, or active participation in, the proceedings for which the written notice  
67 provided by this section is required shall waive the right of that party to challenge the validity of the  
68 proceeding due to failure of the party to receive the written notice required by this section.

69 C. When a proposed comprehensive plan or amendment thereto; a proposed change in zoning map  
70 classification; or an application for special exception for a change in use or to increase by greater than  
71 50 percent of the bulk or height of an existing or proposed building, but not including renewals of  
72 previously approved special exceptions, involves any parcel of land located within one-half mile of a  
73 boundary of an adjoining locality of the Commonwealth, then, in addition to the advertising and written  
74 notification as above required, written notice shall also be given by the local commission, or its  
75 representative, at least 10 days before the hearing to the chief administrative officer, or his designee, of  
76 such adjoining locality.

77 D. When (i) a proposed comprehensive plan or amendment thereto, (ii) a proposed change in zoning  
78 map classification, or (iii) an application for special exception for a change in use involves any parcel of  
79 land located within 3,000 feet of a boundary of a military base, military installation, military airport,  
80 excluding armories operated by the Virginia National Guard, or licensed public-use airport then, in  
81 addition to the advertising and written notification as above required, written notice shall also be given  
82 by the local commission, or its representative, at least 10 days before the hearing to the commander of  
83 the military base, military installation, military airport, or owner of such public-use airport, and the  
84 notice shall advise the military commander or owner of such public-use airport of the opportunity to  
85 submit comments or recommendations.

86 E. The adoption or amendment prior to July 1, 1996, of any plan or ordinance under the authority of  
87 prior acts shall not be declared invalid by reason of a failure to advertise or give notice as may be  
88 required by such act or by this chapter, provided a public hearing was conducted by the governing body  
89 prior to such adoption or amendment. Every action contesting a decision of a locality based on a failure  
90 to advertise or give notice as may be required by this chapter shall be filed within 30 days of such  
91 decision with the circuit court having jurisdiction of the land affected by the decision. However, any  
92 litigation pending prior to July 1, 1996, shall not be affected by the 1996 amendment to this section.

93 F. Notwithstanding any contrary provision of law, general or special, any city with a population  
94 between 200,000 and 210,000 which is required by this title or by its charter to publish a notice, may  
95 cause such notice to be published in any newspaper of general circulation in the city.

96 *G. When a proposed comprehensive plan or amendment thereto involves any existing right-of-way or*  
97 *any parcel of land on or under which an electrical transmission line of 150 kilovolts or more shall be*  
98 *or is proposed to be constructed, then, in addition to the advertising and written notification as required*  
99 *above, written notice shall also be given by the local planning commission, or its representative, at least*  
100 *10 days before the hearing to the person constructing or proposing to construct such line.*

101 § 15.2-2223. (Effective July 1, 2007) Comprehensive plan to be prepared and adopted; scope and  
102 purpose.

103 The local planning commission shall prepare and recommend a comprehensive plan for the physical  
104 development of the territory within its jurisdiction and every governing body shall adopt a  
105 comprehensive plan for the territory under its jurisdiction.

106 In the preparation of a comprehensive plan, the commission shall make careful and comprehensive  
107 surveys and studies of the existing conditions and trends of growth, and of the probable future  
108 requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of  
109 guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which  
110 will, in accordance with present and probable future needs and resources, best promote the health,  
111 safety, morals, order, convenience, prosperity and general welfare of the inhabitants, including the  
112 elderly and persons with disabilities.

113 The comprehensive plan shall be general in nature, in that it shall designate the general or  
114 approximate location, character, and extent of each feature, including any road improvement and any  
115 transportation improvement, shown on the plan and shall indicate where existing lands or facilities are  
116 proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use  
117 as the case may be.

118 As part of the comprehensive plan, each locality shall develop a transportation plan that designates a  
119 system of transportation infrastructure needs and recommendations that may include the designation of  
120 new and expanded transportation facilities and that support the planned development of the territory  
121 covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle

accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities. The plan should recognize and differentiate among a hierarchy of roads such as expressways, arterials, and collectors. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing such transportation plan.

The plan, with the accompanying maps, plats, charts, and descriptive matter, shall show the locality's long-range recommendations for the general development of the territory covered by the plan. It may include, but need not be limited to:

1. The designation of areas for various types of public and private development and use, such as different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral resources; conservation; active and passive recreation; public service; flood plain and drainage; and other areas;

2. The designation of a system of community service facilities such as parks, sports playing fields, forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

3. The designation of historical areas and areas for urban renewal or other treatment;

4. The designation of areas for the implementation of reasonable ground water protection measures;

5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

6. The location of existing or proposed recycling centers; and

7. The location of military bases, military installations, and military airports and their adjacent safety areas; and

8. *The designation of corridors or routes that electrical transmission lines of 150 kilovolts or more are to follow. Any public service company proposing to construct an electrical transmission line of 150 kilovolts or more in an area outside of any such corridor or route shall provide adequate evidence to the State Corporation Commission that the designated corridor or route cannot adequately serve the needs of the customers of such company and shall give the affected locality a reasonable time in which to comment on such proposal, not to exceed six months, prior to construction.* -

The plan shall include: the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the current and future needs of residents of all levels of income in the locality while considering the current and future needs of the planning district within which the locality is situated.

The plan shall include: a map that shall show road improvements and transportation improvements, including the cost estimates of such road and transportation improvements as available from the Virginia Department of Transportation, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which the locality is situated.

§ 15.2-2224. Surveys and studies to be made in preparation of plan; implementation of plan.

A. In the preparation of a comprehensive plan, the local planning commission shall survey and study such matters as the following:

1. Use of land, preservation of agricultural and forestal land, production of food and fiber, characteristics and conditions of existing development, trends of growth or changes, natural resources, historic areas, ground water, surface water, geologic factors, population factors, employment, environmental and economic factors, existing public facilities, drainage, flood control and flood damage prevention measures, *the transmission of electricity*, road improvements, and any estimated cost thereof, transportation facilities, transportation improvements, and any cost thereof, the need for affordable housing in both the locality and planning district within which it is situated, and any other matters relating to the subject matter and general purposes of the comprehensive plan.

However, if a locality chooses not to survey and study historic areas, then the locality shall include historic areas in the comprehensive plan, if such areas are identified and surveyed by the Department of Historic Resources. Furthermore, if a locality chooses not to survey and study mineral resources, then the locality shall include mineral resources in the comprehensive plan, if such areas are identified and surveyed by the Department of Mines, Minerals and Energy. The requirement to study the production of food and fiber shall apply only to those plans adopted on or after January 1, 1981.

2. Probable future economic and population growth of the territory and requirements therefor.

B. The comprehensive plan shall recommend methods of implementation and shall include a current map of the area covered by the comprehensive plan. Unless otherwise required by this chapter, the methods of implementation may include but need not be limited to:

1. An official map;

2. A capital improvements program;

3. A subdivision ordinance;

4. A zoning ordinance and zoning district maps;

183 5. A mineral resource map; and

184 6. A recreation and sports resource map.

185 § 56-46.1. Commission to consider environmental, economic and improvements in service reliability  
186 factors in approving construction of electrical utility facilities; approval required for construction of  
187 certain electrical transmission lines; notice and hearings.

188 A. Whenever the Commission is required to approve the construction of any electrical utility facility,  
189 it shall give consideration to the effect of that facility on the environment and establish such conditions  
190 as may be desirable or necessary to minimize adverse environmental impact. In order to avoid  
191 duplication of governmental activities, any valid permit or approval required for an electric generating  
192 plant and associated facilities issued or granted by a federal, state or local governmental entity charged  
193 by law with responsibility for issuing permits or approvals regulating environmental impact and  
194 mitigation of adverse environmental impact or for other specific public interest issues such as building  
195 codes, transportation plans, and public safety, whether such permit or approval is granted prior to or  
196 after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect  
197 to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were  
198 considered by, the governmental entity in issuing such permit or approval, and the Commission shall  
199 impose no additional conditions with respect to such matters. Nothing in this section shall affect the  
200 ability of the Commission to keep the record of a case open. Nothing in this section shall affect any  
201 right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed  
202 facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the  
203 one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a  
204 decision approving such proposed facility that is conditioned upon issuance of any environmental permit  
205 or approval. In every proceeding under this subsection, the Commission shall receive and give  
206 consideration to all reports that relate to the proposed facility by state agencies concerned with  
207 environmental protection; and if requested by any county or municipality in which the facility is  
208 proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3  
209 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (i) shall consider the  
210 effect of the proposed facility on economic development within the Commonwealth and (ii) shall  
211 consider any improvements in service reliability that may result from the construction of such facility.

212 B. No overhead electrical transmission line of 150 kilovolts or more shall be constructed unless the  
213 State Corporation Commission shall, after at least thirty days' advance notice by (i) publication in a  
214 newspaper or newspapers of general circulation in the counties and municipalities through which the line  
215 is proposed to be built, (ii) written notice to the governing body of each such county and municipality,  
216 and (iii) causing to be sent a copy of the notice by first class mail to all owners of property within the  
217 route of the proposed line, as indicated on the map or sketch of the route filed with the Commission,  
218 which requirement shall be satisfied by mailing the notice to such persons at such addresses as are  
219 indicated in the land books maintained by the commissioner of revenue, director of finance or treasurer  
220 of the county or municipality, approve such line. Such approval shall not be required for transmission  
221 lines constructed prior to January 1, 1983, for which the Commission has issued a certificate of  
222 convenience and necessity. Such notices shall include a written description of the proposed route the line  
223 is to follow, as well as a map or sketch of the route. As a condition to approval the Commission shall  
224 determine that the line is needed and that the corridor or route the line is to follow will reasonably  
225 minimize adverse impact on the scenic assets, historic districts and environment of the area concerned  
226 and, in the case of any application which is filed with the Commission in the years 1991 and 1992, for  
227 approval of a line of 500 kilovolts or more, any portion of which is proposed for construction west of  
228 the Blue Ridge Mountains, that the applicant will reasonably accommodate requests to wheel or transmit  
229 power from new electric generation facilities constructed after January 9, 1991. *The Commission shall*  
230 *receive and give consideration to the comprehensive plan of the county or municipality in which the line*  
231 *is proposed to be constructed, provided that such plan has been adopted pursuant to Article 3*  
232 *(§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission shall consider (i) the*  
233 *costs and economic benefits likely to result from requiring, upon the request of the governing body, the*  
234 *underground placement of a proposed electrical transmission line of 150 kilovolts or more and (ii) any*  
235 *adverse impact to the intended customers of the company that may result from pending litigation*  
236 *relating to the construction of such line.*

237 C. If, prior to such approval, any interested party shall request a public hearing, the Commission  
238 shall, as soon as reasonably practicable after such request, hold such hearing or hearings at such place as  
239 may be designated by the Commission. In any hearing the public service company shall provide  
240 adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.

241 If, prior to such approval, written requests therefor are received from twenty or more interested  
242 parties, the Commission shall hold at least one hearing in the area which would be affected by  
243 construction of the line, for the purpose of receiving public comment on the proposal. If any hearing is  
244 to be held in the area affected, the Commission shall direct that a copy of the transcripts of any

245 previous hearings held in the case be made available for public inspection at a convenient location in the  
246 area for a reasonable time before such local hearing.

247 D. For purposes of this section, "interested parties" shall include the governing bodies of any  
248 counties or municipalities through which the line is proposed to be built, and persons residing or owning  
249 property in each such county or municipality and "environment" or "environmental" shall be deemed to  
250 include in meaning "historic," as well as a consideration of the probable effects of the line on the health  
251 and safety of the persons in the area concerned.

252 For purposes of this section, "qualifying facilities" means a cogeneration or small power production  
253 facility which meets the criteria of 18 C.F.R. Part 292; "public utility" means a public utility as defined  
254 in § 56-265.1; and "reasonably accommodate requests to wheel or transmit power" means:

255 1. That the applicant will make available to new electric generation facilities constructed after  
256 January 9, 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total  
257 megawatts of the additional transmission capacity created by the proposed line, for the purpose of  
258 wheeling to public utility purchasers the power generated by such qualifying facilities and other  
259 nonutility facilities which are awarded a power purchase contract by a public utility purchaser in  
260 compliance with applicable state law or regulations governing bidding or capacity acquisition programs  
261 for the purchase of electric capacity from nonutility sources, provided that the obligation of the applicant  
262 will extend only to those requests for wheeling service made within the twelve months following  
263 certification by the State Corporation Commission of the transmission line and with effective dates for  
264 commencement of such service within the twelve months following completion of the transmission line.

265 2. That the wheeling service offered by the applicant, pursuant to subdivision D 1 of this section,  
266 will reasonably further the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L.  
267 95-617), as demonstrated by submitting to the Commission, with its application for approval of the line,  
268 the cost methodologies, terms, conditions, and dispatch and interconnection requirements the applicant  
269 intends, subject to any applicable requirements of the Federal Energy Regulatory Commission, to include  
270 in its agreements for such wheeling service.

271 E. In the event that, at any time after the giving of the notice required in subsection B of this  
272 section, it appears to the Commission that consideration of a route or routes significantly different from  
273 the route described in the notice is desirable, the Commission shall cause notice of the new route or  
274 routes to be published and mailed in accordance with subsection B of this section. The Commission  
275 shall thereafter comply with the provisions of this section with respect to the new route or routes to the  
276 full extent necessary to give interested parties in the newly affected areas the same protection afforded  
277 interested parties affected by the route described in the original notice.

278 F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the  
279 requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line.

280 G. The Commission shall enter into a memorandum of agreement with the Department of  
281 Environmental Quality regarding the coordination of their reviews of the environmental impact of  
282 electric generating plants and associated facilities.

283