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**SENATE BILL NO. 1124**

Offered January 14, 2009

Prefiled January 13, 2009

*A BILL to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03, relating to an income tax credit for generating electricity through the use of solar photovoltaic technology or wind power.*

Patrons—Petersen; Delegates: Marsden, Plum and Sickles

Referred to Committee on Finance

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

**1. That the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.12:03 as follows:**

*§ 58.1-439.12:03. Commercial clean energy production tax credit.*

*A. For taxable years beginning on or after January 1, 2010, any taxpayer owning a commercial clean energy production facility shall be allowed a credit against the tax imposed by § 58.1-320 or 58.1-400 in the amount of (i) 0.06 cents per kWh of electricity that is generated using solar photovoltaic technology at the commercial clean energy production facility and that is sold in the taxable year to an electric utility in the Commonwealth and (ii) 0.03 cents per kWh of electricity that is generated using wind power at the commercial clean energy production facility and that is sold in the taxable year to an electric utility in the Commonwealth.*

*B. For purposes of this section, "commercial clean energy production facility" means a nonresidential facility located within the Commonwealth at which electricity is generated through the use of solar photovoltaic technology or wind power and that further complies with such criteria as are established by the State Corporation Commission in a proceeding conducted pursuant to subsection C.*

*C. The State Corporation Commission shall conduct a rulemaking proceeding, which shall be completed by December 1, 2009, to establish procedures for the administration of the energy production tax credit established by this section and to establish eligibility criteria for commercial solar photovoltaic and wind power facilities that are in the public interest.*

*D. The amount of the credit shall not exceed the total amount of tax imposed by this chapter for the taxable year in which the electricity is sold. If the amount of credit allowed exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the income taxes of the taxpayer in the next five taxable years or until the total amount of the tax credit has been taken, whichever is sooner.*

*E. Credits granted to a partnership, limited liability company, or electing small business corporation (S corporation) shall be allocated to the individual partners, members, or shareholders, respectively, in proportion to their ownership or interest in such business entities.*

INTRODUCED

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