



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### Senate Bill No. 1347

#### *Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Wagner and Puckett)*

**LD#:** 09-0241340

**Date:** 2/24/2009

**Topic:** Permits for certain renewable energy projects

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
Cannot be determined
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### **Summary of Proposed Legislation:**

The proposal directs the Department of Environmental Quality (DEQ) to develop a permit by rule and accompanying regulations to allow the construction and operation of electrical generation facilities that have a maximum capacity of generating (i) 100 megawatts of electricity from only sunlight, wind, falling water, wave motion, tides, or geothermal power, or (ii) 20 megawatts of electricity from only biomass, energy from waste, or municipal solid waste. A small renewable energy project for which such a permit by rule has been issued will be exempt from requirements that the State Corporation Commission permit its construction and operation.

The penalties for violating any provision of the proposed article (Article 5 of Chapter 11.1 of Title 10.1), any regulation, permit by rule, order or certification authorized by the proposed article are described in § 10.1-1197.9. Violation or refusing to obey any applicable provision is subject to a civil penalty not to exceed \$32,500 for each violation; each day of violation constitutes a separate offense. The willful violation or neglecting to comply with any applicable provision is a Class 1 misdemeanor. The knowing violation or neglect to comply with any applicable provision is a felony punishable by a term of one to five years. If the knowing violation places another person in imminent danger of death or serious bodily injury, the felony punishment is increased to a term of two to fifteen years. If the defendant is not an individual the fine is to be an amount that is three times the economic benefit realized by the defendant as a result of the offense, but not to exceed \$1 million. For a subsequent conviction, the maximum penalty is doubled with respect to both fine and imprisonment involving the same person.

#### **Analysis:**

Because the proposal defines crimes not currently found in the *Code of Virginia*, violations regarding the construction and operation of small renewable energy projects cannot be identified using existing state data sources. The number of cases that would constitute violations of the proposal cannot be determined.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Some elements of the proposal may be covered under existing provisions; however, the number of additional felony convictions that may result from the proposal cannot be estimated. Therefore, the impact of the proposal on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Because it creates a new misdemeanor offense, the proposal may increase the local-responsible (jail) bed space needs; the magnitude of the impact, however, cannot be determined.

**Adult community corrections programs.** The proposal may increase the need for adult community corrections programs, but the magnitude of the impact cannot be determined.

**Virginia's sentencing guidelines.** The guidelines would not cover convictions under the proposed legislation as the primary (most serious) offense. A conviction under this proposal, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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