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## SENATE BILL NO. 657

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance)

(Patron Prior to Substitute—Senator Ruff)

Senate Amendments in [ ] — February 9, 2010

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 tax credits for renewable energy products.

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. Renewable energy products tax credit.

A. For purposes of this section:

"Exported" or "exports" means the shipment of renewable energy products to a foreign country.

"Manufactured" or "manufactures" means manufactured in the Commonwealth.

"Renewable energy products" means any equipment, devices, or fuel sources designed and used primarily for the production of renewable energy, as that term is defined in § 56-576, except for ethanol fuels, as that term is defined in § 45.1-394.

B. Any person that manufactures renewable energy products in Virginia at a manufacturing facility that begins production of renewable energy products no later than January 1, 2012, which renewable energy products are exported by such manufacturer, shall be allowed a credit against the taxes imposed by § 58.1-320 or 58.1-400 for such renewable energy products in the amount of 3 percent of the total sales price of the renewable energy products it manufactures and exports. The credit shall be allowed for the taxable year beginning two years after such renewable energy production begins and shall end on the last day of the seventh taxable year after such renewable energy production begins.

C. In no event shall the credit allowed under this section for any taxable year to any facility manufacturing renewable energy products exceed \$500,000.

D. The total amount of tax credits granted under this section for each fiscal year of the Commonwealth shall not exceed \$6 million. A taxpayer meeting the requirements of this section shall be eligible to receive a tax credit to the extent the taxpayer reserves such tax credit through the Department as provided herein.

The Department shall establish policies and procedures for the reservation of tax credits by eligible taxpayers. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible taxpayers; (iii) a method for the issuance of reservations to eligible taxpayers that did not initially receive a reservation in any year, if the Department determines that tax credit reservations were issued to other taxpayers that did not use, or were determined to be wholly or partially ineligible for, a reserved tax credit; and (iv) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible taxpayers that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. In no case shall a taxpayer be allowed to carry over any tax credit to be applied against any income tax for taxable years subsequent to the taxable year of export.

Actions of the Department relating to the approval or denial of applications for reservations for tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

E. A taxpayer claiming the credit under this section for a taxable year shall submit with its application for reservation of tax credits and its state income tax return a written statement certifying a listing of its export volumes as reported on its monthly reports to the United States Department of the Treasury for each month of the taxable year.

[ F. 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.]

ENGROSSED

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