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SENATE BILL NO. 71

Offered January 13, 2010

Prefiled January 5, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 23 of Title 56 a section numbered 56-596.1, relating to the establishment of an electric energy efficiency standard; alternative compliance payments; Virginia Energy Efficiency and Conservation Fund.*

Patrons—McEachin; Delegate: Kory

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 23 of Title 56 a section numbered 56-596.1 as follows:

§ 56-596.1. Energy efficiency resource standard.

A. *The Commission shall establish for each electric utility by September 1, 2010, a forecast of the quantity of electricity that would be consumed by the electric utility's retail customers in the Commonwealth, without implementation of a portfolio of cost-effective electric utility energy efficiency programs, during calendar years 2011, 2015, and 2022.*

B. *By September 1, 2011, each electric utility shall implement a portfolio of cost-effective electric utility energy efficiency programs that reduce the consumption of electric energy by each electric utility's retail customers in the Commonwealth by an amount of gigawatt hours greater than or equal to:*

1. *0.3 percent of the forecast of the quantity of electricity that would be consumed by the electric utility's retail customers in 2011 established pursuant to subsection A;*

2. *3.9 percent of the forecast of the quantity of electricity that would be consumed by the electric utility's retail customers in 2015 established pursuant to subsection A; and*

3. *12.2 percent of the forecast of the quantity of electricity that would be consumed by the electric utility's retail customers in 2022 established pursuant to subsection A.*

C. *By September 1, 2012, each electric utility shall file with the Commission a report documenting the amount of electric energy consumption by the electric utility's retail customers in the Commonwealth that was reduced, expressed in megawatt hours, through the electric utility's implementation of energy efficiency programs. The report shall address the electric utility's progress toward achieving the reductions in the consumption of electric energy by its retail customers in the Commonwealth stated in subdivisions B 1, B 2, and B 3. Upon receiving the report, the Commission shall enter an order instituting a proceeding with respect to the filing of the report, which order shall provide an opportunity for public comment.*

D. *Each electric utility may at any time, but no more frequently than once in any 12 months, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs of designing and implementing a portfolio of cost-effective electric utility energy efficiency programs pursuant to subdivision A 5 c of § 56-585.1. An electric utility shall be entitled to an enhanced rate of return on such costs in the following amount:*

1. *100 basis points if the electric utility achieves measured and verified reductions in the consumption of electric energy by its retail customers in the Commonwealth of not less than 100 percent of the reductions stated in subdivisions B 1, B 2, and B 3; or*

2. *150 basis points if the electric utility achieves measured and verified reductions in the consumption of electric energy by its retail customers in the Commonwealth of not less than 125 percent of the reductions stated in subdivisions B 1, B 2, and B 3.*

E. *For purposes of this section, "cost-effective electric utility energy efficiency program" means an energy efficiency program that the Commission has determined is cost effective pursuant to application of the Total Resource Cost (TRC) test with the following adjustments:*

1. *Inclusion of a value for carbon costs, to be determined by the Commission, in the calculation of the avoided cost of energy and capacity;*

2. *An adder of 10 percent to the avoided cost of transmission and distribution, reserves, and ancillary services within the TRC calculation to represent the non-energy benefits, such as land use impacts, of avoiding those costs;*

3. *A reduction of 10 percent from the costs of energy efficiency programs to reflect their lower risk compared to supply-side alternatives; and*

4. *An exclusion of the costs of weatherization programs and similar programs that are targeted at reducing energy usage and electric utility service costs by the electric utility's low-income customers.*

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59 *F. If the Commission determines, after notice and opportunity for hearing, that an electric utility has*
60 *failed to achieve the reductions in the consumption of electric energy by its retail customers in the*
61 *Commonwealth stated in subdivisions B 1, B 2, and B 3, then the Commission shall order the electric*
62 *utility to make an alternative compliance payment. Alternative compliance payments shall be assessed at*
63 *a rate of \$0.075 per kilowatt hour for every kilowatt hour by which consumption of electric energy by*
64 *its retail customers in such year exceeds the amount of electric energy that would have been consumed*
65 *if the consumption of electric energy by its retail customers had been reduced by the amounts stated in*
66 *subdivisions B 1, B 2, and B 3. The cost of alternative compliance payments assessed pursuant to this*
67 *section shall in no way be recoverable by an electric utility from its customers through rates,*
68 *surcharges, or any other cost recovery mechanism. Alternative compliance payments collected pursuant*
69 *to this section shall be paid into the Virginia Energy Efficiency and Conservation Fund created*
70 *pursuant to subsection G.*

71 *G. There is hereby established a special fund in the state treasury to be known as the Virginia*
72 *Energy Efficiency and Conservation Fund (the Fund), which shall be administered by the Department of*
73 *Mines, Minerals and Energy. The Fund shall include all alternative compliance payments collected by*
74 *the Commission pursuant to subsection E and such moneys as may be appropriated by the General*
75 *Assembly or contributed from any other source from time to time and designated for the Fund. The*
76 *Fund shall be used solely for the payment of financial incentives, including grants and low-interest*
77 *loans, to persons other than utilities for the implementation of energy efficiency and conservation*
78 *programs. Unallocated moneys in the Fund in any year shall remain in the Fund and be available for*
79 *allocation for grants under this section in ensuing fiscal years.*