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HOUSE BILL NO. 2389

Offered January 14, 2011

A *BILL to amend and reenact §§ 62.1-198 and 62.1-199 of the Code of Virginia, relating to Virginia Resources Authority's financing of renewable energy projects.*

Patrons—Pollard, Scott, J.M., Surovell and Toscano

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That §§ 62.1-198 and 62.1-199 of the Code of Virginia are amended and reenacted as follows:**

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic and community development projects; recovered gas energy facilities; ~~and~~ the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; *and local government renewable energy projects, including solar and geothermal.* This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, oyster restoration projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties including properties contaminated by defective drywall, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, site acquisition and site development work for the benefit of economic development projects, technology, construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, infrastructure for broadband services, recovered gas energy facilities, ~~and~~ federal facilities or former federal facilities, *and renewable energy projects.* The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other evidences of indebtedness of the Authority.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery

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59 and equipment, the reasonable costs of financing incurred by the local government in the course of the
60 development of the project, including the cost of any credit enhancements, carrying charges incurred
61 before placing the project in service, interest on local obligations issued to finance the project to a date
62 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
63 connection with placing the project in service, the funding of accounts and reserves which the Authority
64 may require and the cost of other items which the Authority determines to be reasonable and necessary.
65 It also includes the amount of any contribution, grant or aid which a local government may make or
66 give to any adjoining state, the District of Columbia or any department, agency or instrumentality
67 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without
68 limitation, the items set forth above. The term also includes interest and principal payments pursuant to
69 any installment purchase agreement.

70 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other
71 forms of collateral or security.

72 "Defective drywall" means the same as that term is defined in § 36-156.1.

73 "Federal facility" means any building or infrastructure used or to be used by the federal government,
74 including any building or infrastructure located on lands owned by the federal government.

75 "Federal government" means the United States of America, or any department, agency or
76 instrumentality, corporate or otherwise, of the United States of America.

77 "Former federal facility" means any federal facility formerly used by the federal government or in
78 transition from use by the federal government to a facility all or part of which is to serve any local
79 government.

80 "Local government" means any county, city, town, municipal corporation, authority, district,
81 commission or political subdivision created by the General Assembly or pursuant to the Constitution and
82 laws of the Commonwealth or any combination of any two or more of the foregoing.

83 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue
84 anticipation notes, leases or any other evidences of indebtedness of a local government.

85 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the
86 amount of money designated as the minimum capital reserve fund requirement which may be established
87 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any
88 outstanding issue of bonds or credit enhancement.

89 "Project" means (i) any water supply or wastewater treatment facility including a facility for
90 receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment,
91 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
92 recovery facility located or to be located in the Commonwealth, the District of Columbia or any
93 adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any
94 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors
95 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,
96 or credit enhancement from the Authority make a determination or finding to be embodied in a
97 resolution or ordinance that the undertaking and financing of such facility is necessary for the location
98 or retention of such facility and the related use by the federal government in the Commonwealth. The
99 term includes, without limitation, water supply and intake facilities; water treatment and filtration
100 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface
101 and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid
102 waste treatment, disposal or management facilities; recycling facilities; resource recovery facilities;
103 related office, administrative, storage, maintenance and laboratory facilities; and interests in land related
104 thereto. The term also includes energy conservation measures and facility technology infrastructure as
105 defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy
106 rail transportation facilities operated by a transportation district, created under the Transportation District
107 Act of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock,
108 barge loading facilities, and any related marine or rail equipment. The term also means, without
109 limitation, the design and construction of roads, the construction of local government buildings,
110 including administrative and operations systems and other local government equipment and
111 infrastructure, public parking garages and other public transportation facilities, and facilities for public
112 transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and
113 any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800,
114 provided that the specific professional sports facility projects have been designated by the General
115 Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities,
116 and technology infrastructure designed to provide broadband service. The term also means facilities
117 supporting, related to, or otherwise used for public safety including, but not limited to, law-enforcement
118 training facilities and emergency response, fire, rescue and police stations. The term also means the
119 remediation, redevelopment and rehabilitation of property contaminated by the release of hazardous
120 substances, hazardous wastes, solid wastes or petroleum where such remediation has not clearly been

mandated by the United States Environmental Protection Agency, the Department of Environmental Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The term also means any program or project for land conservation, parks, park facilities, land for recreational purposes, or land preservation, including but not limited to any program or project involving the acquisition of rights or interests in land for the conservation or preservation of such land. *This term also includes energy conservation measures and facility technology infrastructure as defined in § 11-34.2, and other energy objectives as defined in § 67-101.* The term also means any oyster restoration project, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters. The term also means any program or project to perform site acquisition or site development work for the benefit of economic and community development projects for any local government. The term also means any undertaking by a local government to build or facilitate the building of a recovered gas energy facility. The term also means any undertaking by a local government to facilitate the remediation of residential properties contaminated by the presence of defective drywall.

"Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of treating sewage and wastewater for discharge to state waters, which facility or work is constructed and operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in the solid waste management facility or sewerage system or sewage treatment work and (b) either using such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.