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HOUSE BILL NO. 2447

Offered January 19, 2011

A *BILL to amend and reenact §§ 2.2-1175, 2.2-4344, 10.1-1197.6, 56-576, 62.1-198, 62.1-199, and 62.1-203 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-4325.1 and 62.1-218.1, relating to incentives for the use of renewable energy in state facilities.*

Patron—Cosgrove

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1175, 2.2-4344, 10.1-1197.6, 56-576, 62.1-198, 62.1-199, and 62.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-4325.1 and 62.1-218.1 as follows:

§ 2.2-1175. Responsibilities of Director.

A. The Director shall establish an appropriate administrative unit within the Department to manage the centralized fleet. The Director's responsibilities for the centralized fleet shall include, but not be limited to, the following:

1. Administering the assignment of vehicles to officers and employees of the Commonwealth;
2. Managing a pool of vehicles for short-term use;
3. Purchasing vehicles necessary to the operation of the centralized fleet;
4. Repairing and maintaining vehicles;
5. Monitoring the use of vehicles and enforcing regulations regarding their proper use; and
6. Maintaining records related to the operation and maintenance of vehicles, and the administration of the centralized fleet.

B. *The Director shall establish a schedule of goals for all state agencies to increase the percentage of the energy consumed in state-owned or state-leased buildings that is generated or produced from renewable energy, as defined in § 56-576. The schedule of goals shall increase incrementally in order that in 2025 and thereafter not less than 20 percent of the energy consumed in connection with the operation or occupancy of state-owned or state-leased buildings is generated or produced from renewable energy. The schedule shall provide that such a goal shall be waived for any year when the procurement of the renewable energy to meet the goal would require the Commonwealth to expend an amount that exceeds, by not less than 10 percent, the cost of procuring the equivalent amount of energy generated or produced from fossil fuels.*

§ 2.2-4325.1. Preference for sustainable energy.

A. *In determining the award of any contract for electricity or thermal energy to be purchased for use by agencies of the Commonwealth, the Department of General Services shall procure using competitive sealed bidding and shall award to the lowest responsible bidder offering sustainable energy of a quality suitable for the purpose intended, so long as the bid price is not more than 10 percent greater than the bid price of the low responsive and responsible bidder offering electricity or thermal energy that does not qualify as sustainable energy under subsection B.*

B. *For purposes of this section, sustainable energy means electricity or thermal energy that is generated or produced from renewable energy, as defined in § 56-576 at facilities located in the Commonwealth, the use of which will displace the use by agencies of the Commonwealth of electricity or thermal energy generated or produced from fossil fuels.*

§ 2.2-4344. Exemptions from competition for certain transactions.

A. Any public body may enter into contracts without competition for:

1. The purchase of goods or services that are produced or performed by:
 - a. Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired; or
 - b. Nonprofit sheltered workshops or other nonprofit organizations that offer transitional or supported employment services serving the handicapped.

2. The purchase of legal services, provided that the pertinent provisions of Chapter 5 (§ 2.2-500 et seq.) of this title remain applicable, or expert witnesses or other services associated with litigation or regulatory proceedings.

B. An industrial development authority or regional industrial facility authority may enter into contracts without competition with respect to any item of cost of "authority facilities" or "facilities" as defined in § 15.2-4902 or "facility" as defined in § 15.2-6400.

C. A community development authority formed pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter

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59 51 of Title 15.2, with members selected pursuant to such article, may enter into contracts without
60 competition with respect to the exercise of any of its powers permitted by § 15.2-5158. However, this
61 exception shall not apply in cases where any public funds other than special assessments and
62 incremental real property taxes levied pursuant to § 15.2-5158 are used as payment for such contract.

63 D. The Inspector General for Behavioral Health and Developmental Services may enter into contracts
64 without competition to obtain the services of licensed health care professionals or other experts to assist
65 in carrying out the duties of the Office of the Inspector General for Behavioral Health and
66 Developmental Services.

67 *E. The Commonwealth, acting through the Department of General Services, may enter into contracts*
68 *with terms of not less than five years for the supply of electricity or thermal energy that is generated or*
69 *produced from renewable energy, as defined in § 56-576, for use in state-owned or state-leased*
70 *facilities, without competitive procurement, if the Department is satisfied that (i) the vendor is*
71 *financially able to perform its obligations under the contract, (ii) the electricity or thermal energy is*
72 *generated or produced via the use of technologies that have an acceptable record of reliability, and (iii)*
73 *the vendor is able to guarantee performance.*

74 § 10.1-1197.6. Permit by rule for renewable energy projects.

75 A. Notwithstanding the provisions of § 10.1-1186.2:1, the Department shall develop, by regulations to
76 be effective as soon as practicable, but not later than ~~July 1, 2012~~ *January 1, 2013*, a permit by rule or
77 permits by rule if it is determined by the Department that one or more such permits by rule are
78 necessary for the construction and operation of ~~small~~ renewable energy projects, including such
79 conditions and standards necessary to protect the Commonwealth's natural resources. If the Department
80 determines that more than a single permit by rule is necessary, the Department initially shall develop the
81 permit by rule for wind energy, which shall be effective as soon as practicable, but not later than
82 *January 1, 2011, for wind energy projects with a capacity not exceeding 100 megawatts and not later*
83 *than January 1, 2012, for larger wind energy projects.* Subsequent permits by rule regulations shall be
84 effective as soon as practicable.

85 B. The conditions for issuance of the permit by rule for ~~small~~ renewable energy projects shall
86 include:

87 1. A notice of intent provided by the applicant, to be published in the Virginia Register, that a
88 person intends to submit the necessary documentation for a permit by rule for a ~~small~~ renewable energy
89 project;

90 2. A certification by the governing body of the locality or localities wherein the ~~small~~ renewable
91 energy project will be located that the project complies with all applicable land use ordinances;

92 3. Copies of all interconnection studies undertaken by the regional transmission organization or
93 transmission owner, or both, on behalf of the ~~small~~ renewable energy project;

94 4. A copy of the final interconnection agreement between the ~~small~~ renewable energy project and the
95 regional transmission organization or transmission owner indicating that the connection of the ~~small~~
96 renewable energy project will not cause a reliability problem for the system. If the final agreement is
97 not available, the most recent interconnection study shall be sufficient for the purposes of this section.
98 When a final interconnection agreement is complete, it shall be provided to the Department. The
99 Department shall forward a copy of the agreement or study to the State Corporation Commission;

100 5. A certification signed by a professional engineer licensed in Virginia that the ~~maximum generation~~
101 ~~capacity of the small renewable energy project by (i) an electrical generation facility that generates~~
102 ~~electricity only from sunlight, wind, falling water, wave motion, tides, or geothermal power as designed~~
103 ~~does not exceed 100 megawatts, or (ii) an electrical generation facility that generates electricity only~~
104 ~~from, biomass, energy from waste including agricultural waste, or municipal solid waste as designed~~
105 ~~does not exceed 20 megawatts;~~

106 6. An analysis of potential environmental impacts of the ~~small~~ renewable energy project's operations
107 on attainment of national ambient air quality standards;

108 7. Where relevant, an analysis of the beneficial and adverse impacts of the proposed project on
109 natural resources. For wildlife, that analysis shall be based on information on the presence, activity, and
110 migratory behavior of wildlife to be collected at the site for a period of time dictated by the site
111 conditions and biology of the wildlife being studied, not exceeding 12 months;

112 8. If the Department determines that the information collected pursuant to subdivision B 7 indicates
113 that significant adverse impacts to wildlife or historic resources are likely, the submission of a mitigation
114 plan detailing reasonable actions to be taken by the owner or operator to avoid, minimize, or otherwise
115 mitigate such impacts, and to measure the efficacy of those actions;

116 9. A certification signed by a professional engineer licensed in Virginia that the ~~small~~ renewable
117 energy project is designed in accordance with all of the standards that are established in the regulations
118 applicable to the permit by rule;

119 10. An operating plan describing how any standards established in the regulations applicable to the
120 permit by rule will be achieved;

11. A detailed site plan with project location maps that show the location of all components of the small renewable energy project, including any towers. Changes to the site plan that occur after the applicant has submitted an application shall be allowed by the Department without restarting the application process, if the changes were the result of optimizing technical, environmental, and cost considerations, do not materially alter the environmental effects caused by the facility, or do not alter any other environmental permits that the Commonwealth requires the applicant to obtain;

12. A certification signed by the applicant that the small renewable energy project has applied for or obtained all necessary environmental permits;

13. A requirement that the applicant hold a public meeting. The public meeting shall be held in the locality or, if the project is located in more than one locality in a place proximate to the location of the proposed project. Following the public meeting, the applicant shall prepare a report summarizing the issues raised at the meeting, including any written comments received. The report shall be provided to the Department; and

14. A 30-day public review and comment period prior to authorization of the project.

C. The Department's regulations shall establish a schedule of fees, to be payable by the owner or operator of the small renewable energy project regulated under this article, which fees shall be assessed for the purpose of funding the costs of administering and enforcing the provisions of this article associated with such operations including, but not limited to, the inspection and monitoring of such projects to ensure compliance with this article.

D. The owner or operator of a small renewable energy project regulated under this article shall be assessed a permit fee in accordance with the criteria set forth in the Department's regulations. Such fees shall include an additional amount to cover the Department's costs of inspecting such projects.

E. The fees collected pursuant to this article shall be used only for the purposes specified in this article and for funding purposes authorized by this article to abate impairments or impacts on the Commonwealth's natural resources directly caused by small renewable energy projects.

F. There is hereby established a special, nonreverting fund in the state treasury to be known as the Small Renewable Energy Project Fee Fund, hereafter referred to as the Fund. Notwithstanding the provisions of § 2.2-1802, all moneys collected pursuant to this ~~§ 10.1-1197.6~~ section shall be paid into the state treasury to the credit of the Fund. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Fund shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

G. After the effective date of regulations adopted pursuant to this section, no person shall erect, construct, materially modify, or operate a small renewable energy project except in accordance with this article or Title 56 if the small renewable energy project was approved pursuant to Title 56.

§ 56-576. Definitions.

As used in this chapter:

"Affiliate" means any person that controls, is controlled by, or is under common control with an electric utility.

"Aggregator" means a person that, as an agent or intermediary, (i) offers to purchase, or purchases, electric energy or (ii) offers to arrange for, or arranges for, the purchase of electric energy, for sale to, or on behalf of, two or more retail customers not controlled by or under common control with such person. The following activities shall not, in and of themselves, make a person an aggregator under this chapter: (i) (a) furnishing legal services to two or more retail customers, suppliers or aggregators; (ii) (b) furnishing educational, informational, or analytical services to two or more retail customers, unless direct or indirect compensation for such services is paid by an aggregator or supplier of electric energy; (iii) (c) furnishing educational, informational, or analytical services to two or more suppliers or aggregators; (iv) (d) providing default service under § 56-585; (v) (e) engaging in activities of a retail electric energy supplier, licensed pursuant to § 56-587, which are authorized by such supplier's license; and (vi) (f) engaging in actions of a retail customer, in common with one or more other such retail customers, to issue a request for proposal or to negotiate a purchase of electric energy for consumption by such retail customers.

"Combined heat and power" means a method of using waste heat from electrical generation to offset traditional processes, space heating, air conditioning, or refrigeration.

"Commission" means the State Corporation Commission.

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.) of this title.

"Covered entity" means a provider in the Commonwealth of an electric service not subject to competition but shall not include default service providers.

"Covered transaction" means an acquisition, merger, or consolidation of, or other transaction involving stock, securities, voting interests or assets by which one or more persons obtains control of a

covered entity.

"Curtailment" means inducing retail customers to reduce load during times of peak demand so as to ease the burden on the electrical grid.

"Customer choice" means the opportunity for a retail customer in the Commonwealth to purchase electric energy from any supplier licensed and seeking to sell electric energy to that customer.

"Demand response" means measures aimed at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Distribute," "distributing," or "distribution of" electric energy means the transfer of electric energy through a retail distribution system to a retail customer.

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Energy efficiency program" means a program that reduces the total amount of electricity that is required for the same process or activity implemented after the expiration of capped rates. Energy efficiency programs include equipment, physical, or program change designed to produce measured and verified reductions in the amount of electricity required to perform the same function and produce the same or a similar outcome. Energy efficiency programs may include, but are not limited to, (i) programs that result in improvements in lighting design, heating, ventilation, and air conditioning systems, appliances, building envelopes, and industrial and commercial processes; and (ii) measures, such as but not limited to the installation of advanced meters, implemented or installed by utilities, that reduce fuel use or losses of electricity and otherwise improve internal operating efficiency in generation, transmission, and distribution systems. Energy efficiency programs include demand response, combined heat and power and waste heat recovery, curtailment, or other programs that are designed to reduce electricity consumption so long as they reduce the total amount of electricity that is required for the same process or activity. Utilities shall be authorized to install and operate such advanced metering technology and equipment on a customer's premises; however, nothing in this chapter establishes a requirement that an energy efficiency program be implemented on a customer's premises and be connected to a customer's wiring on the customer's side of the inter-connection without the customer's expressed consent.

"Generate," "generating," or "generation of" electric energy means the production of electric energy.

"Generator" means a person owning, controlling, or operating a facility that produces electric energy for sale.

"Incumbent electric utility" means each electric utility in the Commonwealth that, prior to July 1, 1999, supplied electric energy to retail customers located in an exclusive service territory established by the Commission.

"Independent system operator" means a person that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"Measured and verified" means a process determined pursuant to methods accepted for use by utilities and industries to measure, verify, and validate energy savings and peak demand savings. This may include the protocol established by the United States Department of Energy, Office of Federal Energy Management Programs, Measurement and Verification Guidance for Federal Energy Projects, measurement and verification standards developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE), or engineering-based estimates of energy and demand savings associated with specific energy efficiency measures, as determined by the Commission.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"Peak-shaving" means measures aimed solely at shifting time of use of electricity from peak-use periods to times of lower demand by inducing retail customers to curtail electricity usage during periods of congestion and higher prices in the electrical grid.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other private legal entity, and the Commonwealth or any municipality.

"Renewable energy" means energy derived from sunlight, wind, falling water, biomass, sustainable or otherwise, (the definitions of which shall be liberally construed, *but which shall include wood waste materials including wood recovered from construction and demolition debris, storm debris, forest residue, pallets, and creosoted wood*), energy from waste, municipal solid waste, wave motion, tides, and geothermal power, and does not include energy derived from coal, oil, natural gas or nuclear power. Renewable energy shall also include the proportion of the thermal or electric energy from a facility that results from the co-firing of biomass.

"Retail customer" means any person that purchases retail electric energy for its own consumption at one or more metering points or nonmetered points of delivery located in the Commonwealth.

"Retail electric energy" means electric energy sold for ultimate consumption to a retail customer.

"Revenue reductions related to energy efficiency programs" means reductions in the collection of total non-fuel revenues, previously authorized by the Commission to be recovered from customers by a utility, that occur due to measured and verified decreased consumption of electricity caused by energy efficiency programs approved by the Commission and implemented by the utility, less the amount by which such non-fuel reductions in total revenues have been mitigated through other program-related factors, including reductions in variable operating expenses.

"Supplier" means any generator, distributor, aggregator, broker, marketer, or other person who offers to sell or sells electric energy to retail customers and is licensed by the Commission to do so, but it does not mean a generator that produces electric energy exclusively for its own consumption or the consumption of an affiliate.

"Supply" or "supplying" electric energy means the sale of or the offer to sell electric energy to a retail customer.

"Transmission of," "transmit," or "transmitting" electric energy means the transfer of electric energy through the Commonwealth's interconnected transmission grid from a generator to either a distributor or a retail customer.

"Transmission system" means those facilities and equipment that are required to provide for the transmission of electric energy.

§ 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 projects generating renewable energy for use in state facilities*. 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 to guarantee loans made to private entities in connection with the development of projects generating renewable energy for use in state facilities*. 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.

305 "Cost," as applied to any project financed under the provisions of this chapter, means the total of all
306 costs incurred by the local government as reasonable and necessary for carrying out all works and
307 undertakings necessary or incident to the accomplishment of any project. It includes, without limitation,
308 all necessary developmental, planning and feasibility studies, surveys, plans and specifications,
309 architectural, engineering, financial, legal or other special services, the cost of acquisition of land and
310 any buildings and improvements thereon, including the discharge of any obligations of the sellers of
311 such land, buildings or improvements, real estate appraisals, site preparation and development, including
312 demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery
313 and equipment, the reasonable costs of financing incurred by the local government in the course of the
314 development of the project, including the cost of any credit enhancements, carrying charges incurred
315 before placing the project in service, interest on local obligations issued to finance the project to a date
316 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in
317 connection with placing the project in service, the funding of accounts and reserves which the Authority
318 may require and the cost of other items which the Authority determines to be reasonable and necessary.
319 It also includes the amount of any contribution, grant or aid which a local government may make or
320 give to any adjoining state, the District of Columbia or any department, agency or instrumentality
321 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without
322 limitation, the items set forth above. The term also includes interest and principal payments pursuant to
323 any installment purchase agreement.

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

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

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

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

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

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

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

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

343 "Project" means (i) any water supply or wastewater treatment facility including a facility for
344 receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment,
345 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource
346 recovery facility located or to be located in the Commonwealth, the District of Columbia or any
347 adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any
348 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors
349 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,
350 or credit enhancement from the Authority make a determination or finding to be embodied in a
351 resolution or ordinance that the undertaking and financing of such facility is necessary for the location
352 or retention of such facility and the related use by the federal government in the Commonwealth. The
353 term includes, without limitation, water supply and intake facilities; water treatment and filtration
354 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface
355 and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid
356 waste treatment, disposal or management facilities; recycling facilities; resource recovery facilities;
357 related office, administrative, storage, maintenance and laboratory facilities; and interests in land related
358 thereto. The term also includes energy conservation measures and facility technology infrastructure as
359 defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy
360 rail transportation facilities operated by a transportation district, created under the Transportation District
361 Act of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock,
362 barge loading facilities, and any related marine or rail equipment. The term also means, without
363 limitation, the design and construction of roads, the construction of local government buildings,
364 including administrative and operations systems and other local government equipment and
365 infrastructure, public parking garages and other public transportation facilities, and facilities for public
366 transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and

any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800, provided that the specific professional sports facility projects have been designated by the General Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities, and technology infrastructure designed to provide broadband service. The term also means facilities supporting, related to, or otherwise used for public safety including, but not limited to, law-enforcement training facilities and emergency response, fire, rescue and police stations. The term also means the remediation, redevelopment and rehabilitation of property contaminated by the release of hazardous 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. 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. *The term also means a project to develop a facility located in the Commonwealth at which electricity or thermal energy is generated or produced from a source of renewable energy, as defined in § 56-576, which electricity or thermal energy will be sold to an agency of the Commonwealth for use in a state-owned or state-leased building.*

"Qualifying loan" means a loan made to a borrower for the purpose of financing the capital costs of acquiring or constructing a facility located in the Commonwealth at which electricity or thermal energy will be generated or produced from a source of renewable energy, as defined in § 56-576, which electricity or thermal energy will be sold to an agency of the Commonwealth for use in a state-owned or state-leased building.

"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.

§ 62.1-203. Powers of Authority.

The Authority is granted all powers necessary or appropriate to carry out and to effectuate its purposes, including the following:

1. To have perpetual succession as a public body corporate and as a political subdivision of the Commonwealth;
2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter for the administration and regulation of its affairs and to carry into effect the powers and purposes of the Authority and the conduct of its business;
3. To sue and be sued in its own name;
4. To have an official seal and alter it at will although the failure to affix this seal shall not affect the validity of any instrument executed on behalf of the Authority;
5. To maintain an office at any place within the Commonwealth which it designates;
6. To make and execute contracts and all other instruments and agreements necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter;
7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its properties and assets;
8. To employ officers, employees, agents, advisers and consultants, including without limitations, attorneys, financial advisers, engineers and other technical advisers and public accountants and, the provisions of any other law to the contrary notwithstanding, to determine their duties and compensation without the approval of any other agency or instrumentality;
9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,

428 against any loss, cost, or expense in connection with its property, assets or activities, including insurance
429 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the
430 indemnification of the members of its Board of Directors and its employees and agents;

431 10. To procure credit enhancements from any public or private entities, including any department,
432 agency or instrumentality of the United States of America or the Commonwealth, for the payment of
433 any bonds issued by the Authority, including the power to pay premiums or fees on any such credit
434 enhancements;

435 11. To receive and accept from any source aid, grants and contributions of money, property, labor or
436 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the
437 conditions upon which the aid, grants or contributions are made;

438 12. To enter into agreements with any department, agency or instrumentality of the United States of
439 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of
440 planning, regulating and providing for the financing of any projects;

441 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other
442 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,
443 including taking the action required by § 15.2-2659 or § 62.1-216.1 to obtain payment of any sums in
444 default;

445 14. To enter into contracts or agreements for the servicing and processing of local obligations owned
446 by the Authority;

447 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

448 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with
449 respect to the rate of interest, time and payment of any installment of principal or interest, or any other
450 term of any local obligations owned by the Authority;

451 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in
452 connection with any activities or services of the Authority;

453 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably
454 implied by this chapter; and

455 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the
456 Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the
457 Water Facilities Revolving Fund pursuant to § 62.1-231, from the Water Supply Revolving Fund
458 pursuant to § 62.1-240, from the Virginia Solid Waste or Recycling Revolving Fund pursuant to
459 § 62.1-241.9, from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, or from the Dam
460 Safety, Flood Prevention and Protection Assistance Fund pursuant to § 10.1-603.17; and

461 20. To guarantee the obligations of borrowers under qualifying loans.

462 § 62.1-218.1. Guarantees of qualifying loans.

463 A. There is hereby created in the state treasury a permanent nonreverting fund to be known as the
464 Renewable Energy Loan Guaranty Fund (the Fund). The Fund shall consist of (i) moneys appropriated
465 to the Fund by the General Assembly, (ii) all income from the investment of moneys held by the Fund,
466 and (iii) any other moneys designated for deposit to the Fund from any source, public or private.
467 Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys
468 remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the
469 general fund but shall remain in the Fund. The Fund shall be managed by the Virginia Resources
470 Authority. Moneys in the Fund shall be used to provide loan guarantees as provided in subsection B.

471 B. The Fund shall be used to guarantee up to 70 percent of the principal amount of an eligible
472 qualifying loan to cover potential future losses from the loan portfolios of a lender resulting from the
473 borrower's default under such a loan.

474 C. The Authority, or its designated agent, shall determine the qualifications, terms, and conditions
475 for the use of the Fund and eligibility criteria for qualifying loans, which criteria shall establish
476 minimum requirements for creditworthiness of the obligor under the qualifying loan and the risks
477 associated with the renewable energy project. In developing such criteria, the Authority shall attempt to
478 stimulate the investment of private capital in facilities located in the Commonwealth at which electricity
479 or thermal energy will be generated or produced from a source of renewable energy, as defined in
480 § 56-576, by lowering the costs of capital incurred in the development of such facilities.

481 D. In connection with applications for claims made against the Fund, the Authority is authorized to
482 require the production of any document, instrument, certificate, legal opinion, or any other information
483 it deems necessary or convenient. All claims made against the Fund shall be approved by the Authority.