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SENATE BILL NO. 1462

Offered January 30, 2015

A BILL to amend and reenact §§ 67-1200 through 67-1205, 67-1207, and 67-1210 of the Code of Virginia, relating to the establishment of the Virginia Offshore Energy Development Authority; successor to Virginia Offshore Wind Development Authority.

Patron—Wagner

Unanimous consent to introduce

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-1200 through 67-1205, 67-1207, and 67-1210 of the Code of Virginia are amended and reenacted as follows:

CHAPTER 12.

VIRGINIA OFFSHORE ~~WIND~~ ENERGY DEVELOPMENT AUTHORITY.**§ 67-1200. Definitions.**

As used in this chapter, unless the context requires another meaning:

"Authority" means the Virginia Offshore ~~Wind~~ Energy Development Authority created pursuant to this chapter.

"Developer" means any private developer of an offshore wind energy ~~projects~~ project or an offshore oil and gas project.

"Offshore oil and gas project" means any exploration, drilling, collection, transmission, or other activity that relates to the production of oil or natural gas, or both, that is undertaken off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes interests in land, improvements, and ancillary facilities.

"Offshore wind energy project" means a wind-powered electric energy facility, including tower, turbine, and associated equipment, located off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes interests in land, improvements, and ancillary facilities.

"Project" means an offshore oil and gas project or an offshore wind energy project.

"Transmission study" means a study to determine the potential interconnection options to accommodate multiple offshore wind energy projects in the Hampton Roads region.

§ 67-1201. Authority created; purpose.

The Virginia Offshore Wind Development Authority is ~~created~~ as continued as the Virginia Offshore Energy Development Authority, which shall be a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the offshore wind energy industry, offshore wind energy projects, offshore oil and gas industry, offshore oil and gas projects, and associated supply chain vendors by collecting relevant data, including metocean and environmental data, by identifying existing state and regulatory or administrative barriers to the development of the offshore wind energy industry and offshore oil and gas industry, by working in cooperation with relevant local, state, and federal agencies to upgrade port and other logistical facilities and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels, and by ensuring that the development of such projects is compatible with other ocean uses and avian and marine resources, including both the possible interference with and positive effects on naval facilities and operations, NASA-Wallops Flight Facility operations, shipping lanes, recreational and commercial fisheries, and avian and marine species and habitats. The Authority shall, in cooperation with the relevant state and federal agencies as necessary, recommend ways to encourage and expedite the development of the offshore wind energy industry and the offshore oil and gas industry. The Authority shall also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate.

The Authority shall have only those powers enumerated in this chapter.

§ 67-1202. Membership; terms; vacancies; expenses.

A. The Authority shall be composed of ~~nine~~ 18 nonlegislative citizen members appointed by the Governor. ~~Nine~~ of the citizen members shall have a background or experience in offshore wind energy issues, one of whom shall be a representative of the Virginia Commercial Space Flight Authority. ~~Nine~~

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59 *of the citizen members shall have a background or experience in offshore oil and gas issues.* In addition,
60 one ex officio member without voting privileges shall be selected by the Governor after consideration of
61 the persons nominated by the Secretary of the Navy. With the exception of the representative of the
62 Virginia Commercial Space Flight Authority, all members of the Authority shall reside in the
63 Commonwealth.

64 B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No
65 member shall be eligible to serve more than two successive four-year terms. After expiration of an
66 initial term of three years or less, two additional four-year terms may be served by such member if
67 appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for
68 the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the
69 original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall
70 not constitute a term in determining the member's eligibility for reappointment.

71 C. The initial appointments of members shall be as follows: ~~three~~ *six* members shall be appointed for
72 terms of four years; ~~three~~ *six* members shall be appointed for terms of three years; and ~~three~~ *six*
73 members shall be appointed for terms of two years. Thereafter all appointments shall be for terms of
74 four years.

75 D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom
76 shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the
77 vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be
78 held on the call of the chairman or whenever a majority of the members so request. A majority of
79 members of the Authority serving at any one time shall constitute a quorum for the transaction of
80 business.

81 E. Members shall serve without compensation. However, all members may be reimbursed for all
82 reasonable and necessary expenses incurred in the performance of their duties as provided in
83 §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the
84 Authority by the General Assembly.

85 F. Members of the Authority shall be subject to the standards of conduct set forth in the State and
86 Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for
87 misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

88 G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the
89 provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

90 **§ 67-1203. Data collection.**

91 A. The Authority shall, through moneys derived from sources other than state funds, to the extent
92 such moneys are available, ~~operate~~:

93 1. *Operate* in cooperation with the National Oceanic and Atmospheric Administration to upgrade
94 wind resource and other metocean assessment equipment at Chesapeake Light Tower and other
95 structures; and

96 2. *Operate in cooperation with the U.S. Bureau of Ocean Energy Management to ensure that*
97 *offshore oil and gas projects are undertaken in a manner that complies with all applicable state and*
98 *federal laws and regulations.*

99 B. The Authority may establish public-private partnerships with a developer pursuant to the
100 Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the
101 installation and operation of ~~wind resource and other metocean~~ *equipment relating to projects*, including
102 light detection and ranging equipment, meteorological measurement towers, *oil and gas exploratory*
103 *equipment*, and data collection platforms. Any partnership established pursuant to this subsection shall
104 stipulate that:

105 1. The Authority and the developers shall share the costs of the upgrade;

106 2. The developer, in coordination with the Authority and relevant state and federal agencies, shall
107 operate any *equipment operated in connection with a project, including any* meteorological measurement
108 towers and data collection platforms; and

109 3. The developer shall make all collected data available to the Authority.

110 C. The Authority may establish public-private partnerships with a developer pursuant to the
111 Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the collection
112 of avian and marine environmental data. Any partnership established pursuant to this subsection shall
113 stipulate that:

114 1. The Authority and the developer shall share the costs of data collection;

115 2. The developer, in coordination with the Authority and relevant state and federal agencies, shall
116 manage the environmental data collection process; and

117 3. The developer shall make all collected data available to the Authority.

118 D. The Authority may make any data collected pursuant to this section available to the public.

119 **§ 67-1204. Port facilities upgrades.**

120 The Authority may establish public-private partnerships with entities pursuant to the Public-Private

Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) for the upgrade of port facilities and other logistical equipment and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels that will support the construction and operations of offshore wind energy projects, *offshore oil and gas projects, or both*. Any partnership established pursuant to this subsection shall stipulate that the Authority and the entities shall share the costs of the upgrade.

§ 67-1205. Federal loan guarantees.

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. 111-5, or other similar federal legislation, to facilitate the development of offshore wind energy projects.

B. Upon obtaining federal loan guarantees for offshore wind energy projects pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate. Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 4 of § 2.2-4002. Decisions of the Authority shall be final and not subject to review or appeal.

§ 67-1207. Powers and duties of the Authority.

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available to the Authority;
7. Invest its funds as permitted by applicable law;
8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;
9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;
10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;
11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the offshore wind energy industry *and the offshore oil and gas industry*, including facilitating any permitting processes; and
12. Enter into interstate partnerships to develop the offshore wind energy industry ~~and~~, offshore wind energy projects, *offshore oil and gas industry, and offshore oil and gas projects*.

§ 67-1210. Confidentiality of information.

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of offshore wind energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

2. That the citizen members of the Virginia Offshore Wind Development Authority on the effective date of this act shall continue as members of the Virginia Offshore Energy Development Authority

182 for the remainder of the term for which they were appointed.