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HOUSE BILL NO. 474

Offered January 10, 2018

Prefiled January 7, 2018

A *BILL to amend the Code of Virginia by adding sections numbered 33.2-226.1 and 56-594.3, relating to land lease program for installation of solar energy collection devices; purchase of energy produced; highway rights-of-way.*

 Patron—Reid

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 sections numbered 33.2-226.1 and 56-594.3 as follows:

§ 33.2-226.1. Lease of rights-of-way for solar energy collection devices.

A. At least once every five years, the Department shall conduct an evaluation of the land owned by the Commonwealth for use as rights-of-way to determine if any land is available and suitable for the installation of solar energy collection devices. If the Department determines that there is land available and suitable for the installation of solar energy collection devices, the Commissioner shall publicly solicit bids for the lease of such land for the purpose of installing, operating, and collecting energy from solar energy collection devices. The Commissioner may utilize any competitive procurement process authorized by law, including (i) competitive sealed bidding, (ii) competitive negotiation, (iii) best value procurements as defined in § 2.2-4301, and (iv) public-private partnerships pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), as determined by the Commissioner, in his sole discretion, to be appropriate and the method most likely to achieve the identified goals of the proposed lease. A public solicitation of bids pursuant to this section does not create an obligation to lease the identified land. Any lease agreement entered into pursuant to this section shall be at least 10 years in duration. All terms of the lease not established by law shall be determined by the Commissioner.

B. Of the revenues generated by a lease agreement established pursuant to this section, 25 percent shall be deposited into the general fund. The remaining 75 percent shall be evenly distributed among the localities in which the solar right-of-way generating facility, as defined in § 56-594.3, is located.

C. Any entity that enters a bid for the lease of land pursuant to this section shall be required to complete the application and review process for use of rights-of-way established by the Department pursuant to 23 U.S.C. 111 and 23 C.F.R. 1.23 and to obtain the approval of the Department.

§ 56-594.3. Solar right-of-way generators.

A. As used in this section:

"Solar right-of-way generating facility" means an electrical generating facility that:

1. Has a capacity of not more than two megawatts;
2. Generates electricity from solar energy collection devices;
3. Is located on land owned by the Commonwealth and leased to a solar right-of-way generator pursuant to § 33.2-226.1;
4. Is interconnected and operated in parallel with an electric utility's distribution facilities;
5. Is designed so that the electricity generated by the facility is expected to remain on the utility's distribution system;
6. Is located within the certificated service territory of a utility; and
7. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Solar right-of-way generator" means the operator of a solar right-of-way generating facility.

"Utility" means an investor-owned electric utility or cooperative electric utility.

B. A solar right-of-way generator electing to interconnect pursuant to this section shall:

1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its solar right-of-way generating facility, which power purchase agreement obligates the utility to purchase all the electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-approved avoided cost tariff for energy and capacity;
2. Own any renewable energy certificates associated with its solar right-of-way generating facility; however, at the time that the solar right-of-way generator enters into a power purchase agreement with its utility, the solar right-of-way generator shall have a one-time option to sell the renewable energy certificates associated with such generating facility to its utility and be compensated at an amount that

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59 is established by the Commission to reflect the value of such renewable energy certificates. Nothing in
60 this section shall prevent the solar right-of-way generator and its utility from voluntarily entering into
61 an agreement for the sale and purchase of renewable energy certificates at a mutually agreed-upon
62 price if the solar right-of-way generator does not exercise its option to sell its renewable energy
63 certificates to its utility at Commission-approved prices at the time that the solar right-of-way generator
64 enters into a power purchase agreement with its utility;

65 3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314;
66 and

67 4. Pay to its utility any necessary additional expenses as required by this section.

68 C. Utilities:

69 1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the
70 output of the solar right-of-way generation facility;

71 2. Shall recover the cost for the utility's distribution facilities to the generating meter either through
72 a proportional cost-sharing agreement with the solar right-of-way generator or through metering the
73 total capacity and energy placed on the distribution system by the solar right-of-way generation facility;

74 3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable
75 energy certificates from the solar right-of-way generator:

76 a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and
77 rate adjustment clause, through the utility's RPS rate adjustment clause; or

78 b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the
79 utility's fuel adjustment clause or through the utility's cost of purchased power;

80 4. May conduct settlement transactions for purchased power in dollars through a process determined
81 by the utility;

82 5. Shall bill the solar right-of-way generator eligible costs for small generator interconnection
83 studies required pursuant to the appropriate small generator interconnection process described in
84 subdivision B 3; and

85 6. Shall bill the utility's expenses, at cost, for any additional engineering studies that a solar
86 right-of-way generator is required to pay prior to interconnection.

87 2. The Department of Transportation shall establish rules and regulations necessary for the
88 implementation of this act, including establishing criteria to use in determining whether land is
89 suitable for the installation of solar energy collection devices.