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SENATE BILL NO. 894**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on January 31, 2018)

(Patron Prior to Substitute—Senator Wagner)

A *BILL to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 23.3, consisting of sections numbered 62.1-241.13 through 62.1-241.16, relating to loans to localities to fund energy efficiency projects.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 23.3, consisting of sections numbered 62.1-241.13 through 62.1-241.16, as follows:

CHAPTER 23.3.**VIRGINIA ENERGY EFFICIENCY REVOLVING FUND.****§ 62.1-241.13. Definitions.**

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

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.).

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

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Department" means the Department of Mines, Minerals and Energy.

"Fund" means the Virginia Energy Efficiency Revolving Fund created by this chapter.

"Local government" means any county, city, town, or public school division, or any combination of any two or more of the foregoing.

"Project" means any energy conservation measure and facility technology infrastructure as defined in § 11-34.2 and any other energy objective as defined in § 67-101 for existing or new buildings, or modification or acquisition of energy-efficient motor vehicles, where the total projected energy efficiency savings over the life of the project exceed its cost. If an energy efficiency improvement is part of a larger renovation, construction, upgrade, or other similar measure, then the project, for purposes of determining such costs and savings, and for obtaining any loan from the Fund, shall be limited to the energy efficiency improvements and necessary changes to implement them.

§ 62.1-241.14. Virginia Energy Efficiency Revolving Fund.

There shall be set apart as a permanent and perpetual fund, to be known as the Virginia Energy Efficiency Revolving Fund, sums appropriated to the Fund by the General Assembly, including all receipts by the Fund from loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source public or private. The Fund shall be administered and managed by the Authority as prescribed in this chapter with the goal of promoting, to the extent possible, cost-effective energy efficiency improvements by eligible borrowers.

§ 62.1-241.15. Deposit of moneys; expenditures; investments.

All moneys belonging to the Fund shall be deposited in an account or accounts in banks or trust companies organized under the laws of the Commonwealth or in national banking associations located in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth or the United States. The moneys in these accounts shall be paid by check signed by the Executive Director of the Authority or other officers or employees designated by the Board. All deposits of moneys shall, if required by the Authority, be secured in a manner determined by the Authority to be prudent, and all banks, trust companies, and savings institutions are authorized to give security for the deposits. Moneys in the Fund shall not be commingled with other moneys of the Authority. Moneys in the Fund not needed for immediate use or disbursement may be invested or reinvested by the Authority in obligations or securities that are considered lawful investments for public funds under the laws of the Commonwealth.

§ 62.1-241.16. Loans to local governments.

A. Except as otherwise provided in this chapter, with such amounts as appropriated to the Fund, moneys in the Fund shall be used solely to make loans to local governments to finance or refinance all or part of the cost of any project. The local governments to which loans are to be made, the purposes of the loan, the amount of each such loan, the conditions of any loan from the Fund, the interest rate on each loan, and the repayment terms thereof, which may vary between loan recipients, shall be designated in writing by the Authority. No loan from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable

60 *financing expenses.*

61 *In consultation with the Department, the Authority shall give priority to projects that (i) most rapidly*
62 *recoup costs through energy efficiency savings or (ii) have the greatest long-term savings, provided that*
63 *the Authority may set minimum project sizes.*

64 *B. Each loan shall be evidenced by appropriate bonds or notes of the local government payable to*
65 *the Fund. The bonds or notes shall have been duly authorized by the local government and executed by*
66 *its authorized legal representatives. The Authority is authorized to require in connection with any loan*
67 *from the Fund such documents, instruments, certificates, legal opinions, and other information as it may*
68 *deem necessary or convenient.*

69 *The Authority may perform other acts, including the conveyance of, or the granting of liens on or*
70 *security interests in, real and personal property, together with all rights, title, and interest therein, to*
71 *the Fund, or take other actions as may be deemed necessary or desirable by the Authority to secure*
72 *payment of the principal and interest, if any, on the loan from the Fund and to provide for the remedies*
73 *of the Fund in the event of any default in the payment of the loan, including, if appropriate, taking the*
74 *action required by § 15.2-2659 to obtain payment of any amounts in default.*

75 *C. All local governments borrowing moneys from the Fund are authorized to perform any acts, take*
76 *any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this*
77 *chapter. Such contracts need not be identical among all local governments but may be structured as*
78 *determined by the Department according to the needs of the contracting local governments and the*
79 *Fund.*

80 *D. Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the*
81 *Authority may consent to and approve any modification in the terms of any loan subject to any*
82 *guidelines that may be adopted by the Department.*

83 *E. In order to carry out the administration and management of the Fund, the Authority is granted*
84 *the power to employ officers, employees, agents, advisors, and consultants, including, without limitation,*
85 *attorneys, financial advisors, engineers and other technical advisors, and public accountants and, the*
86 *provisions of any other law to the contrary notwithstanding, to determine their duties and compensation*
87 *without the approval of any other agency or instrumentality. The Authority may disburse from the Fund*
88 *its reasonable costs and expenses incurred in the administration and management of the Fund. The*
89 *Authority may provide a portion of its fee to the Department to cover the Department's costs and*
90 *expenses.*