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HOUSE BILL NO. 1635

Offered January 9, 2019

Prefiled November 14, 2018

A *BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-399, relating to the transition of the Commonwealth to a 100 percent clean energy economy; clean energy mandates; moratorium on new major fossil fuel projects; Climate Action Plan.*

Patrons—Rasoul, Guzman, Carter, Gooditis, Hope, Hurst, Keam, Kory, Levine, Lopez, Rodman, Roem, Simon, Tran and VanValkenburg

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-399, as follows:

CHAPTER 27.**DECREASED RELIANCE ON FOSSIL FUELS ACT.****§ 45.1-395. Definitions.**

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

"Clean energy" means energy efficiency, energy conservation, demand response, energy storage, and energy derived from solar, onshore wind, offshore wind, geothermal, and ocean tidal sources.

"Fossil fuel" or "fossil fuel resource" means coal, petroleum, natural gas, or any derivative of coal, petroleum, or natural gas that is used for fuel.

"Fossil fuel energy" means electric energy generated, in whole or in part, by a fossil fuel resource.

"Gathering line" has the same meaning ascribed to the term in 49 C.F.R. § 195.2.

"Permitting agency" means the Department, State Corporation Commission, State Air Pollution Control Board, State Water Control Board, Virginia Waste Management Board, Department of Environmental Quality, or other state agency or political subdivision of the Commonwealth that is the issuing agent for any permit, certificate, or other approval that is required to be obtained prior to the construction or operation of any facility described in subsection A of § 45.1-397.

"Retail electric supplier" means a public utility or other person that (i) sold not less than 1,000 megawatt hours of electric energy to retail customers during the preceding calendar year or (ii) generates not less than 1,000 megawatt hours of electric energy for use by the person.

§ 45.1-396. Clean energy mandates.

A. The minimum annual percentage of the quantity of electricity sold by a retail electric supplier that is generated from clean energy resources shall be:

1. In calendar years 2028 through 2035, 80 percent; and

2. In calendar year 2036 and every calendar year thereafter, 100 percent.

B. Beginning in 2020, by April 1 of each year, each retail electric supplier shall submit a report to the Director containing:

1. Documentation of purchases or generation by the retail electric supplier of clean energy source electricity as a percentage of the total retail electricity sales of the retail electric supplier in the preceding calendar year; and

2. Documentation of plans for the purchase or generation by the retail electric supplier of clean energy sourced electricity equal to the percentage required by this chapter for retail electricity sales in 2028 through 2035 and in 2036 and every year thereafter.

§ 45.1-397. Moratorium on new major fossil fuel projects.

A. Beginning on January 1, 2020, unless preempted by applicable federal law, there shall be a moratorium on approval by any permitting agency of any permit, certificate, or other approval required for:

1. Any new electric generating facility that generates fossil fuel energy through the combustion of any fossil fuel resource;

2. Any new or expanding import or export terminal for fossil fuel resources;

3. Any maintenance activity relating to an existing import or export terminal for a fossil fuel resource that expands the import or export capacity for a fossil fuel resource;

4. Any new gathering line or pipeline for the transport of any fossil fuel resource that requires the use of eminent domain on private property;

5. Any maintenance activity relating to an existing gathering line or pipeline for the transport of a

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58 fossil fuel resource that expands the carrying capacity of the gathering line or pipeline by more than
59 five percent;

60 6. Any new refinery of a fossil fuel resource; and

61 7. Any exploration for any type of fossil fuel.

62 B. Unless preempted by applicable federal law, the applicable permitting agency shall deny any
63 application submitted to such permitting agency on or after January 1, 2020, for a permit, certificate, or
64 approval for the construction, installation, expansion, or operation of any facility or activity described
65 in subsection A.

66 **§ 45.1-398. Authority of Director; enforcement of chapter by injunction.**

67 A. The Director shall promulgate such rules and regulations as may be necessary and proper to
68 carry out the provisions of this chapter.

69 B. The authority to administer and enforce the provisions of this chapter is hereby vested in the
70 Director. In administering and enforcing the provisions of this chapter, the Director shall exercise the
71 following powers in addition to any other powers conferred upon him by law:

72 1. To supervise the administration and enforcement of this chapter and all rules and regulations and
73 orders promulgated hereunder;

74 2. To issue orders to enforce the provisions of this chapter and all rules and regulations
75 promulgated hereunder;

76 3. To make investigations and inspections to ensure compliance with any provision of this chapter or
77 any rules, regulations, or orders promulgated or issued hereunder; and

78 4. To receive any federal funds, state funds, or any other funds and to enter into any contracts for
79 which funds are available to carry out the purposes of this chapter.

80 C. The Director may petition any court of competent jurisdiction for an injunction against any
81 violation of the provisions of this chapter and the rules, regulations, and orders promulgated or issued
82 hereunder or to compel the performance of acts required thereby without regard to any adequate
83 remedy that may exist at law, such injunction to be issued without bond.

84 **§ 45.1-399. Climate Action Plan.**

85 A. The Department shall adopt a Climate Action Plan to implement the requirements established in
86 this chapter. The Climate Action Plan shall:

87 1. Address all aspects of climate change, including mitigation, adaptation, and resiliency;

88 2. Address agriculture, heating, cooling, and transportation;

89 3. Be completed by January 1, 2021, with a draft plan available for public comment by March 1,
90 2020;

91 4. Support the development of community and publicly owned clean energy; and

92 5. Incorporate goals of environmental justice and be developed with meaningful input and analysis
93 from environmental justice organizations.

94 B. The Department shall conduct regional public hearings on the draft plan.

95 C. Permitting agencies shall take action and adopt regulations that are consistent with and further
96 the goals of the Climate Action Plan. Each permitting agency shall develop and update annually a plan
97 to achieve such goals for its own internal operations as well as for regulatory and other actions under
98 its purview.

99 D. The Department shall ensure that the Climate Action Plan will advance the goal of 100 percent
100 clean energy in a manner that benefits the Commonwealth's most disadvantaged communities and is
101 transparent and accountable to the public and the General Assembly.

102 E. The Climate Action Plan shall ensure that 40 percent of funds allocated by and through the
103 Commonwealth to deal with climate change shall be targeted to low-income communities and
104 communities of color.

105 F. The Department shall establish a statewide Environmental and Climate Justice Task Force of
106 affected community groups to assist in the development and implementation of the Climate Action Plan.

107 G. The Department shall implement programs that provide a just transition from current energy
108 sources to clean energy as follows:

109 1. In conjunction with the Department of Labor and Industry, the Department shall develop
110 programs, including job training programs, relocation assistance, higher education programs, and
111 temporary financial support that extends the duration of unemployment benefits, that assist workers in
112 transitioning from jobs in the fossil fuel and nuclear power industries into jobs in the clean energy
113 sector; and

114 2. The programs developed by the Department pursuant to subdivision 1 shall also be open to
115 individuals who are determined by the Department to (i) have been previously employed in the fossil
116 fuel industry and who are out of work due to reduction in demand for jobs in that industry or (ii) reside
117 in communities that have been disproportionately affected by fossil fuels.

118 H. Residents of the Commonwealth and organizations shall have the legal standing to sue to ensure
119 that the provisions of this chapter and any Climate Action Plan adopted pursuant to this section are

120 *enforced.*