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HOUSE BILL NO. 2295

Offered January 9, 2019

Prefiled January 8, 2019

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 45.1-400, relating to the establishment of the Energy Efficiency Program; special fund; Energy Efficiency Board; funding for cost effective energy efficiency projects.

Patrons—Sullivan, Lopez and Toscano

Referred to Committee on Appropriations

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 45.1-400, as follows:

CHAPTER 27.

ENERGY EFFICIENCY PROGRAM.

§ 45.1-395. Definitions.

"Board" means the Energy Efficiency Board established by § 45.1-397.

"Cost effective energy efficiency project" means an energy efficiency project for which the net present value of its benefits exceeds the net present value of its costs as determined by not less than any three of the following four tests: (i) the Total Resource Cost Test; (ii) the Utility Cost Test, also referred to as the Program Administrator Test; (iii) the Participant Test; and (iv) the Ratepayer Impact Measure Test. Such determination shall include an analysis of all four tests, and a program or portfolio of programs shall be approved if the net present value of the benefits exceeds the net present value of the costs as determined by not less than any three of the four tests. In addition, an energy efficiency program may be deemed to be cost effective if the program provides measurable and verifiable energy savings to low-income customers or elderly customers.

"Division" means the Division of Energy within the Department.

"Energy efficiency project" means a project conducted by an entity other than a public utility 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 projects 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 projects 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; (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; and (iii) customer engagement programs that result in measurable and verifiable energy savings that lead to efficient use patterns and practices. Energy efficiency projects 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.

"Fund" means the Energy Efficiency Fund established by § 45.1-396.

"Program" means the Energy Efficiency Program established by this chapter.

§ 45.1-396. Energy Efficiency Fund; Energy Efficiency Program.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Energy Efficiency Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of implementing the provisions of this chapter, which is referred to herein as the Energy Efficiency Program, which provides for the promotion of the development and deployment of cost effective energy efficiency projects in the Commonwealth that are selected by the Board for financing through the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Board.

B. The Division, or its designated agent, is empowered to collect moneys due to the Fund.

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59 *Proceedings to recover moneys due to the Fund may be instituted in the name of the Fund in any*  
60 *appropriate circuit court.*

61 **§ 45.1-397. Energy Efficiency Board; membership; chairman.**

62 *A. The Energy Efficiency Board is established as an independent board in state government for the*  
63 *purpose of implementing the Energy Efficiency Program established by this chapter. In so doing, the*  
64 *Board shall make determinations regarding the expenditure of moneys in the Fund.*

65 *B. The Board shall have a total membership of seven persons appointed by the Governor. Members*  
66 *of the Board shall be citizens of the Commonwealth and shall have experience in energy efficiency*  
67 *projects. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired*  
68 *terms. Vacancies shall be filled by the Governor. All members may be reappointed. No member shall*  
69 *serve more than two consecutive four-year terms. The remainder of any term to which a member is*  
70 *appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for*  
71 *reappointment.*

72 *C. The Board shall elect a chairman and vice-chairman from among its membership. A majority of*  
73 *the members shall constitute a quorum. The Board shall meet no more than four times each year. The*  
74 *meetings of the Board shall be held at the call of the chairman or whenever the majority of the*  
75 *members so request.*

76 *D. Members shall receive no compensation for their services, but shall be reimbursed out of the*  
77 *Fund for all reasonable and necessary expenses as provided in §§ 2.2-2813 and 2.2-2825 incurred in*  
78 *the performance of their duties. Funding for the costs of compensation and expenses of the members*  
79 *shall be provided from the Fund.*

80 *E. The Board shall:*

81 *1. Identify and provide funding for cost effective energy efficiency projects that:*

82 *a. Give priority to funding cost effective energy efficiency projects that will benefit low-income*  
83 *Virginians or assist multifamily projects; and*

84 *b. Do not replace existing demand side management programs and other energy efficiency initiatives*  
85 *conducted by a public utility;*

86 *2. Develop goals and guidelines for the use of the Fund in accordance with the purposes of the Fund*  
87 *as provided in this chapter;*

88 *3. Identify cost effective energy efficiency projects; and*

89 *4. Authorize the expenditure of moneys in the Fund on specific cost effective energy efficiency*  
90 *projects.*

91 *F. No later than November 15 of each year, the Board shall present to the General Assembly and*  
92 *the Governor a report on expenditures from the Fund.*

93 *G. Staffing of the Board shall be provided by the Division.*

94 **§ 45.1-398. Duties of Division of Energy.**

95 *The Division shall assist the Board in implementing the Energy Efficiency Program pursuant to this*  
96 *chapter. The Division shall:*

97 *1. Develop and submit to the Board for review and approval, a five-year strategic plan and an*  
98 *annual plan for the Program, both of which shall be developed with input from a public stakeholder*  
99 *process;*

100 *2. Develop, and submit to the Board for review and approval, an annual operating budget;*

101 *3. Develop, and submit to the Board for review and approval, proposed program designs to facilitate*  
102 *the identification, funding, and development of cost effective energy efficiency projects; and*

103 *4. At least annually, hold a joint public meeting with the members of the Board to review and*  
104 *discuss the status of the Fund; Fund projects; any reports, information, or inquiries submitted by the*  
105 *public; and any additional matters they deem necessary to fulfill their obligations under this chapter.*

106 **§ 45.1-399. Program implementers.**

107 *The Board shall contract with a for-profit or an independent nonprofit organization to implement any*  
108 *of the cost effective energy efficiency projects for which it approves financing from the Fund.*

109 **§ 45.1-400. Regulations.**

110 *The Department may adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et*  
111 *seq.) to implement the provisions of this chapter and shall consult with the Board before or during the*  
112 *process of adopting such regulations.*