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HOUSE BILL NO. 2741

Offered January 17, 2019

A *BILL to amend and reenact §§ 2.2-2287 and 62.1-204 of the Code of Virginia and to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-401, relating to Clean Energy Advisory Board; fund; solar installation rebate; report; sunset.*

Patrons—Aird, Keam, Kory and Morefield; Senator: Lewis

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2287 and 62.1-204 of the Code of Virginia are amended and reenacted and 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 45.1-401, as follows:

§ 2.2-2287. Power to borrow money and issue bonds.

The Authority may borrow money and issue bonds to pay the cost of the projects for which the bonds have been issued, including but not limited to the power to issue bonds to renew or to pay bonds, including the interest thereon. Whenever it deems refunding expedient it may refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds. Refunding bonds may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded, or exchanged for the bonds to be refunded. The Authority may undertake the financing of the cost of a project for an eligible business from the proceeds of its bonds by one or more of the following methods: (i) entering into a lease for the facilities of the eligible business being financed; (ii) selling such facilities to the eligible business under a sales contract; (iii) lending the proceeds of the sale of the bonds under a loan agreement with the eligible business; (iv) entering into a loans to lenders transaction in the manner described in § 2.2-2293; or (v) entering into such other transactions as the Board deems appropriate to accomplish the purposes of this article. *The Authority may issue bonds for the purpose of funding the clean energy rebate program administered by the Director of the Department of Mines, Minerals and Energy as advised by the Clean Energy Advisory Board pursuant to the provisions of Chapter 27 (§ 45.1-395 et seq.) of Title 45.1.*

CHAPTER 27.**CLEAN ENERGY ADVISORY BOARD.****§ 45.1-395. Clean Energy Advisory Board; purpose.**

The Clean Energy Advisory Board (the Board) is established as an advisory board in the executive branch of state government. The purpose of the Board is to establish a pilot program for disbursing rebates for the installation of solar energy infrastructure in low-income and moderate-income households.

§ 45.1-396. Membership; terms; quorum; meetings; staffing.

The Board shall have a total membership of 11 members that shall consist of 10 nonlegislative citizen members and one ex officio member. Nonlegislative citizen members shall be appointed as follows:

1. Three nonlegislative citizen members to be appointed by the Speaker of the House of Delegates upon consideration of the recommendations of the Board of Directors of the Maryland-DC-Delaware-Virginia Solar Energy Industries Association (the MDV-SEIA Board) and the Governor's Advisory Council on Environmental Justice (the Council), one of whom shall be a solar energy professional or employer or representative of solar energy professionals, one of whom shall be a rooftop solar energy professional or employer or representative of rooftop solar energy professionals, and one of whom shall be a current or former member of the Council;

2. Two nonlegislative citizen members to be appointed by the Senate Committee on Rules upon consideration of the recommendations of the MDV-SEIA Board, one of whom shall be a solar energy professional or employer or representative of solar energy professionals and one of whom shall work for or with a Virginia-based electric utility company; and

3. Five nonlegislative citizen members to be appointed by the Governor upon consideration of the recommendations of the MDV-SEIA Board and the Advisory Council of Environmental Justice and subject to confirmation by the General Assembly, one of whom shall be an attorney who is licensed to practice in the Commonwealth and maintains a private practice in renewable energy law and transactions, one of whom shall be an attorney who is licensed to practice in the Commonwealth and

59 specializes in tax law and energy transactions, one of whom shall be an attorney with the Division of
60 Consumer Counsel created pursuant to the provisions of § 2.2-517, one of whom shall be an employee
61 of a community development financial institution who specializes in impact investing, and one of whom
62 shall be a member of a Virginia community or environmental organization.

63 The Director or his designee shall serve ex officio with voting privileges.

64 Nonlegislative citizen members of the Board shall be citizens of the Commonwealth. The ex officio
65 member of the Board shall serve a term coincident with his term of office. Nonlegislative citizen
66 members shall be appointed for a term of three years. Appointments to fill vacancies, other than by
67 expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as
68 the original appointments. All members may be reappointed.

69 The Board shall elect a chairman and vice-chairman from among its membership. A majority of the
70 members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman
71 or whenever the majority of the members so request.

72 The Department shall provide staff support to the Board. All agencies of the Commonwealth shall
73 provide assistance to the Board, upon request.

74 **§ 45.1-397. Compensation; expenses.**

75 Citizen members shall receive such compensation for the performance of their duties as provided in
76 § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the
77 performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of
78 compensation and expenses of the members shall be provided by the Department.

79 **§ 45.1-398. Powers and duties of the Board.**

80 The Board shall have the following powers and duties:

81 1. To advise the Director on the management of the Clean Energy Rebate Fund (the Fund) pursuant
82 to the provisions of § 45.1-399;

83 2. To establish and operate, with the approval of the Director, a solar energy rebate program
84 pursuant to the provisions of § 45.1-400;

85 3. To advise the Director on the possibility of working with a community development financial
86 institution to further the purposes of the solar energy rebate program;

87 4. To advise the Director on the distribution of moneys in the Fund in the form of rebates pursuant
88 to the provisions of § 45.1-400; and

89 5. To submit to the Governor and the General Assembly an annual report for publication as a report
90 document as provided in the procedures of the Division of Legislative Automated Systems for the
91 processing of legislative documents and reports. The chairman shall submit to the Governor and the
92 General Assembly an annual executive summary of the interim activity and work of the Board no later
93 than the first day of each regular session of the General Assembly. The executive summary shall be
94 submitted for publication as a report document as provided in the procedures of the Division of
95 Legislative Automated Systems for the processing of legislative documents and reports and shall be
96 posted on the General Assembly's website.

97 **§ 45.1-399. Clean Energy Rebate Fund.**

98 There is hereby created in the state treasury a special nonreverting fund to be known as the Clean
99 Energy Rebate Fund, referred to in this section as "the Fund." The Fund shall be established on the
100 books of the Comptroller. All funds appropriated for such purpose, all funds raised from the sale of
101 bonds on behalf of the Fund by the Virginia Small Business Financing Authority pursuant to the
102 provisions of Article 7 (§ 2.2-2279 et seq.) of Title 2.2 or the Virginia Resources Authority pursuant to
103 the provisions of Chapter 21 (§ 62.1-197 et seq.) of Title 62.1, and any gifts, donations, grants,
104 bequests, and other funds received on its behalf shall be paid into the state treasury and credited to the
105 Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any
106 moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
107 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the
108 purposes of paying rebates to electric customers who complete solar installations pursuant to the
109 provisions of § 45.1-400. Expenditures and disbursements from the Fund shall be made by the State
110 Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

111 **§ 45.1-400. Rebate program.**

112 A. The Board, with the approval of the Director, shall establish a rebate program and rules for the
113 rebate application process. The program shall be open to any Virginia resident whose household income
114 is at or below 80 percent of the state median income or regional median income, whichever is greater.
115 The program shall allow only one rebate per residence, irrespective of the ownership of the solar
116 energy system that is installed. A rebate shall be available only for a solar installation on a residence
117 or on a multi-unit residential building composed of four or fewer residential units.

118 B. The Board shall accept an application only from the installer of the solar installation or the agent
119 of the customer.

120 Each application shall include (i) 12 months of the customer's utility bills prior to installation of the

121 solar energy system and an agreement to provide 12 months of utility bills to the Board following the
 122 installation; (ii) the customer's permission for the Director to (a) create a customer profile for the
 123 customer if he becomes an eligible rebate customer, (b) aggregate the data provided by such eligible
 124 rebate customers, and (c) use such aggregate data for the purpose of lowering energy costs and
 125 implementing effective programs; (iii) evidence of the completion of a home performance audit before
 126 and after installation of energy efficiency services such as lighting or insulation improvements, attic
 127 tents, weatherization, air sealing of openings in the building envelope, sealing of ducts, or thermostat
 128 upgrades, to demonstrate that such energy efficiency services were completed and resulted in a
 129 reduction in consumption of at least 12 percent; and (iv) an affidavit attesting to the receipt of a public
 130 benefit at the time the solar energy system is to be installed.

131 C. The Board shall review each application submitted to it on a first-come, first-served basis and
 132 shall recommend to the Director the approval or denial of each such application within 30 days of
 133 receipt. If the Director approves an application, he shall hold a reservation of funds for as long as 180
 134 days for final rebate claim and disbursement.

135 D. A customer whose application is approved may install an energy system that is (i) owned and
 136 operated by the customer or by a third party, (ii) located on premises owned by the customer and
 137 connected to the wiring of such customer's side of its interconnection with the distributor, (iii)
 138 interconnected and operated in parallel with an electric company's transmission and distribution
 139 facilities, (iv) connected to a nationally recognized monitoring system to report the production of the
 140 system to the owner of the energy system and the Board, and (v) operated with the primary purpose of
 141 collecting or absorbing sunlight for conversion into electricity to offset all or part of the customer's own
 142 electricity requirements.

143 E. All of the work of installing the energy system shall be completed by a licensed contractor that (i)
 144 possesses an Alternative Energy System Contracting (AES) specialty as defined by the Board for
 145 Contractors pursuant to the provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1; (ii) possesses
 146 certification for solar installation from the Virginia State Licensing Board, the North American Board
 147 for Certified Energy Practitioners, Solar Energy International, Roof Integrated Solar Energy, or a
 148 similar installer certification program; (iii) possesses a rating of "A" or higher from the local Better
 149 Business Bureau; and (iv) has installed a minimum of 150 net-metered residential solar systems in
 150 Virginia. If the work of installing the solar energy system requires electrical work, it shall be completed
 151 by an electrical contractor licensed by the Virginia Department of Professional and Occupational
 152 Regulation. All photovoltaic panels, inverters, and other electrical apparatus used in the solar energy
 153 system shall be tested and certified by a federal Occupational Safety and Health Administration
 154 Nationally Recognized Testing Laboratory such as UL LLC and installed in compliance with
 155 manufacturer specifications and all applicable building and electrical codes.

156 F. The customer or the installer, acting on behalf of the customer, shall submit any rebate claim
 157 within 90 days of completion of the installation of the solar energy system, with completion deemed to
 158 have occurred once the solar energy system's bi-directional meter or net meter, or the respective utility's
 159 revenue grade meter, has been installed and the system has been electrified. Each rebate claim shall
 160 include, at a minimum, a date of system electrification and a time-stamped and date-stamped verification
 161 of (i) bi-directional net meter delivery or (ii) the operation of a compatible programmed smart meter
 162 capable of tracking net metering activity.

163 G. The Director shall review and approve or deny a rebate claim within 60 days of receipt and shall
 164 provide a written explanation of each denial to the respective claimant. The Director shall disburse from
 165 the Clean Energy Rebate Fund created pursuant to § 45.1-399 the rebate for each approved claim
 166 within 60 days of its receipt of the claim and according to the order in which its respective application
 167 was approved. The rebate shall be in the amount of \$2 per DC watt for up to six kilowatts of solar
 168 capacity installed. The customer may use a rebate in addition to any federal tax credits or state
 169 incentives or enhancements earned for the same solar installation.

170 **§ 45.1-401. Sunset.**

171 *This chapter shall expire on July 1, 2022.*

172 **§ 62.1-204. Power to borrow money and issue bonds and credit enhancements.**

173 The Authority shall have the power to borrow money and issue its bonds in amounts the Authority
 174 determines to be necessary or convenient to provide funds to carry out its purposes and powers and to
 175 pay all costs and expenses incurred in connection with the issuance of bonds. The Authority shall also
 176 have the power to issue credit enhancements with respect to local obligations issued to finance or
 177 refinance the cost of any project. The total outstanding aggregate principal amount of bonds issued by
 178 the Authority and local obligations guaranteed by the Authority pursuant to credit enhancements, that in
 179 either case are secured by a capital reserve fund pursuant to the provisions of § 62.1-215, shall not
 180 exceed the sum of \$1.5 billion without prior approval of the General Assembly.

181 *The Authority may issue bonds for the purpose of funding the clean energy rebate program*

182 *administered by the Director of the Department of Mines, Minerals and Energy as advised by the Clean*
183 *Energy Advisory Board pursuant to the provisions of Chapter 27 (§ 45.1-395 et seq.) of Title 45.1.*
184 Notwithstanding the foregoing, the Authority shall not exceed the sum of eight million dollars in the
185 total principal amount of bonds outstanding at any one time for the purpose of financing any heavy rail
186 transportation facilities.