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**SENATE BILL NO. 768**

Offered January 10, 2018

Prefiled January 10, 2018

A *BILL to amend the Code of Virginia by adding a section numbered 56-585.1:4, relating to electric utility regulation; costs associated with closure in place of coal combustion residuals landfills and surface impoundments.*

Patrons—Surovell and Chase; Delegates: Carroll Foy and Kory

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 a section numbered 56-585.1:4 as follows:**

**§ 56-585.1:4. Costs for closure of coal combustion residuals landfills and surface impoundments.**

A. *For purposes of this section:*

"Closure in place" means the closure of a coal combustion residuals landfill or surface impoundment by leaving such coal combustion residuals in place, as set forth in 40 C.F.R. § 257.102 and as incorporated under 9VAC20-81-800. "Closure in place" does not include the closure of coal combustion residuals landfills or surface impoundments where all such ash is (i) contained within a bottom liner system that conforms to the liner requirements set forth in subdivision J A a of 90VAC20-81-130 or 40 C.F.R. § 257.70 and (ii) at least 1,000 feet from any perennial stream or river and at least 500 feet from any wetland as determined by the Army Corps of Engineers.

"Costs associated with closure in place" includes any costs of construction; operation or maintenance; monitoring and sampling; subsequent closure by removal; remediation; restoration of any environmental resource damage; restoration of any contaminated surface water or groundwater; restoration of any habitat for affected wildlife; and restoration of any private or public drinking water. "Costs associated with closure in place" includes any legal fees associated with closure in place or damages associated with any legal action or settlement.

B. After July 1, 2018, when evaluating under subdivision A 8 b of § 56-585.1 if a utility has, during the test period or test periods under review, considered as a whole, earned more than 70 basis points above a fair combined rate of return on its generation and distribution services, the Commission shall not consider any costs associated with closure in place as period costs expensed on a Virginia jurisdictional basis.

C. For purposes of any rate adjustment clause described in subdivision A 5 e of § 56-585.1, costs associated with closure in place are not necessary to comply with any environmental law or regulation.

D. For purposes of any biennial review conducted under § 56-585.1, costs associated with closure in place are unreasonable and not prudent.

INTRODUCED

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