

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1191

An Act to amend and reenact §§ 67-100, 67-101, 67-102, and 67-201 of the Code of Virginia, relating to the Commonwealth Energy Policy and Virginia Energy Plan.

[S 94]

Approved April 11, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-100, 67-101, 67-102, and 67-201 of the Code of Virginia are amended and reenacted as follows:

§ 67-100. Legislative findings.

The General Assembly hereby finds that:

1. Energy is essential to the health, safety, and welfare of the people of this Commonwealth and to the Commonwealth's economy;
2. The state government should facilitate the availability and delivery of reliable and adequate supplies of energy to industrial, commercial, and residential users at reasonable costs such that these users and the Commonwealth's economy are able to be productive; and
3. The Commonwealth would benefit from articulating clear objectives pertaining to energy issues, adopting an energy policy that advances these objectives, and establishing a procedure for measuring the implementation of these policies;
4. *Climate change is an urgent and pressing challenge for Virginia. Swift decarbonization and a transition to clean energy are required to meet the urgency of the challenge; and*
5. *The Commonwealth will benefit from being a leader in deploying a low-carbon energy economy.*

§ 67-101. Energy objectives.

The Commonwealth recognizes each of the following objectives pertaining to energy issues will advance the health, welfare, and safety of the residents of the Commonwealth:

1. Ensuring an adequate energy supply and a Virginia-based energy production capacity;
2. Minimizing the Commonwealth's long-term exposure to volatility and increases in world energy prices through greater energy independence;
3. Ensuring the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy;
4. Managing the rate of consumption of existing energy resources in relation to economic growth;
5. Establishing sufficient supply and delivery infrastructure to *enable widespread deployment of distributed energy resources and to maintain reliable energy availability in the event of a disruption occurring to a portion of the Commonwealth's energy matrix;*
6. *Using energy resources more efficiently* ~~Maximizing energy efficiency programs, which are the lowest-cost energy option to reduce greenhouse gas emissions, in order to produce electricity cost savings and to create jobs and economic opportunity from the energy efficiency service sector;~~
7. Facilitating conservation;
8. Optimizing intrastate and interstate use of energy supply and delivery to maximize energy availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's economy as stated in subdivision 2 of § 67-100;
9. Increasing Virginia's reliance on sources of energy that, compared to traditional energy resources, are less polluting of the Commonwealth's air and waters;
10. ~~Researching the efficacy, cost, and benefits of reducing, avoiding, or sequestering the emissions of greenhouse gases produced in connection with the generation of energy~~ *Establishing greenhouse gas emissions reduction goals across Virginia's economy sufficient to reach net-zero emissions by 2045, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors;*
11. *Requiring that pathways to net-zero greenhouse gas emissions be determined based on technical, policy, and economic analysis to maximize their effectiveness, optimize Virginia's economic development, and create quality jobs while minimizing adverse impacts on public health, affected communities, and the environment;*
12. *Developing energy resources necessary to produce 30 percent of Virginia's electricity from renewable energy sources by 2030 and 100 percent of Virginia's electricity from carbon-free sources by 2040;*
13. *Enabling widespread integration of distributed energy resources into the grid, including storage and carbon-free generation such as rooftop solar installations as defined in § 56-576;*
14. Removing impediments to the use of ~~abundant low-cost carbon-free energy resources located within and outside the Commonwealth and ensuring the economic viability of the producers, especially those in the Commonwealth, of such, including distributed renewable energy generation resources,~~

nuclear power plants, and generation resources that employ carbon capture and sequestration;

12. Developing energy resources and facilities in a manner that does not impose a disproportionate adverse impact on economically disadvantaged or minority communities;

13. Recognizing the need to foster those economically developable alternative sources of energy that can be provided at market prices as vital components of a diversified portfolio of energy resources; and

14. 15. Mitigating the negative impacts of climate change and the energy transition on disadvantaged communities and prioritizing investment in these communities;

16. Developing the carbon-free energy resources required to fully decarbonize the electric power supply of the Commonwealth, including deployment of 30 percent renewables by 2030 and realizing 100 percent carbon-free electric power by 2040;

17. Increasing Virginia's reliance on and production of sustainably produced biofuels made from traditional agricultural crops and other feedstocks, such as winter cover crops, warm season grasses, fast-growing trees, algae or other suitable feedstocks grown in the Commonwealth that will create jobs and income, produce clean-burning fuels that will help to improve air quality, and provide the new markets for Virginia's silvicultural and agricultural products needed to preserve farm employment, conserve farmland and forestland, and increase implementation of silvicultural and agricultural best management practices to protect water quality; and

18. Ensuring that decision making is transparent and includes opportunities for full participation by the public.

Except as provided in subsection D of § 56-585.1, nothing in this section shall be deemed to abrogate or modify in any way the provisions of the Virginia Electric Utility Regulation Act (§ 56-576 et seq.).

§ 67-102. Commonwealth Energy Policy.

A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth to:

1. Support research and development of, and promote the use of, renewable energy sources;

2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to support the demands of economic growth;

3. Promote research and development of clean coal technologies, including but not limited to integrated gasification combined cycle systems;

4. Promote cost-effective conservation of energy and fuel supplies;

5. Ensure the availability of affordable natural gas throughout the Commonwealth by expanding Virginia's natural gas distribution and transmission pipeline infrastructure; developing coalbed methane gas resources and methane hydrate resources; encouraging the productive use of landfill gas; and siting one or more liquefied natural gas terminals;

4. Ensure the adequate supply of natural gas necessary to ensure the reliability of the electricity supply and the needs of businesses during the transition to renewable energy.

6. 5. Promote the generation of electricity through technologies that do not contribute to greenhouse gases and global warming;

7. Facilitate the development of new, and the expansion of existing, petroleum refining facilities within the Commonwealth;

8. 6. Promote the use of motor vehicles that utilize alternate fuels and are highly energy efficient;

9. 7. Support efforts to reduce the demand for imported petroleum by developing alternative technologies, including but not limited to the production of synthetic and hydrogen-based fuels, and the infrastructure required for the widespread implementation of such technologies;

10. Promote the sustainable production and use of biofuels produced from silvicultural and agricultural crops grown in the Commonwealth, and support the delivery infrastructure needed for statewide distribution to consumers;

11. 8. Ensure that development of new, or expansion of existing, energy resources or facilities does not have a disproportionate adverse impact on economically disadvantaged or minority communities; and

12. Ensure that energy generation and delivery systems that may be approved for development in the Commonwealth, including liquefied natural gas and related delivery and storage systems, should be located so as to minimize impacts to pristine natural areas and other significant onshore natural resources, and as near to compatible development as possible

9. Establish greenhouse gas emissions reduction standards across all sectors of Virginia's economy that target net-zero emissions carbon by 2045;

10. Enact mandatory clean energy standards and overall strategies for reaching net-zero carbon in the electric power sector by 2040;

11. Equitably incorporate requirements for technical, policy, and economic analyses and assessments that recognize the unique attributes of different energy resources and delivery systems to identify pathways to net-zero carbon that maximize Virginia's energy reliability and resilience, economic development, and jobs; and

12. Minimize the negative impacts of climate change and the energy transition on economically disadvantaged or minority communities and prioritize investment in these areas.

B. The elements of the policy set forth in subsection A shall be referred to collectively in this title as

the Commonwealth Energy Policy.

C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where appropriate, shall act in a manner consistent therewith.

D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues, and shall not be construed to amend, repeal, or override any contrary provision of applicable law. The failure or refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner consistent with the Commonwealth Energy Policy, or to take any other action whatsoever, shall not create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

§ 67-201. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, ~~and the Center for Coal and Energy Research~~ *Clean Energy Advisory Board*, solar, wind, and energy efficiency sectors, and a stakeholder group that shall include representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations and natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan ~~covering~~ *(the Plan)* that identifies actions over a 10-year period consistent with the goal of the Commonwealth Energy Policy set forth in § 67-102 to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § 67-101, that will implement the Commonwealth Energy Policy set forth in § 67-102.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including ~~but not limited to~~ the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of *non-greenhouse-gas-generating* energy resources, such as nuclear power, used in the Commonwealth;

2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how *distributed energy resources and* regional generation, transmission, and distribution resources affect the Commonwealth;

3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources, *including an assessment of state and local impediments to expanded use of distributed resources and recommendations to reduce or eliminate these impediments*;

4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;

5. An analysis of the efficient use of energy resources and conservation initiatives;

6. An analysis of how these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets;

7. An analysis of siting of energy resource development, refining or transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities;

8. With regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411 (d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii) the effect on energy markets and reliability; and (iii) the commercial availability of technology required to comply with such regulations; ~~and~~

9. *An inventory of greenhouse gas emissions using a method determined by the Department of Environmental Quality for the four years prior to the issuance of the Plan; and*

10. Recommendations, based on the analyses completed under subdivisions 1 through 8 9, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Energy Policy.

C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize state geographic information systems, to the extent deemed practicable, to assess how recommendations in the ~~plan~~ *Plan* may affect pristine natural areas and other significant onshore natural resources. *Effective October 1, 2024, interim updates on the Plan shall also contain projections for greenhouse gas emissions that would result from implementation of the Plan's recommendations.*

D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a system for ascribing numerical scores to parcels of real property based on the extent to which the parcels are suitable for the siting of a wind energy facility or solar energy facility. For wind energy facilities, the scoring system shall address the wind velocity, sustained velocity, turbulence, proximity to electric power transmission systems, potential impacts to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan. For solar energy facilities, the scoring system shall address the parcel's proximity to electric power transmission lines, potential impacts of such a facility to natural and historic resources and to economically disadvantaged or minority communities, and compatibility with the local land use plan.

The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy facility to be measured against the hypothetical score of an ideal location for such a facility.

E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.