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HOUSE BILL NO. 1675

Offered January 17, 2020

A *BILL to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 7.3, consisting of sections numbered 15.2-2316.6 through 15.2-2316.9, relating to siting of solar energy facilities.*

 Patron—Hodges

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 7.3, consisting of sections numbered 15.2-2316.6 through 15.2-2316.9, as follows:

*Article 7.3.**Siting of Solar Energy Facilities.*

§ 15.2-2316.6. Siting of solar photovoltaic (electric energy) facilities in economically disadvantaged localities.

A. For purposes of this article, unless the context requires a different meaning:

"Facility" means a commercial solar photovoltaic (electric energy) generation or storage facility, or any portion thereof.

"Host locality" means any locality within whose jurisdictional boundaries construction of a commercial solar photovoltaic (electric energy) generation or storage facility is proposed.

B. Prior to the issuance of a permit by rule or certificate of public need, an applicant seeking to locate a facility on any census tract meeting the eligibility requirements for an opportunity zone as designated by the federal Internal Revenue Service shall execute a siting agreement with the host locality in which the census tract is located.

§ 15.2-2316.7. Powers of host localities.

The governing body of a host locality shall have the power to:

1. Hire and pay consultants and other experts on behalf of the host locality in matters pertaining to the siting of a facility; and

2. Enter into a contract with an applicant that is binding upon the governing body of the host locality and enforceable against it and future governing bodies of the host locality in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties' option.

§ 15.2-2316.8. Negotiations; siting agreement.

A. The governing body of a host locality or its designated representatives and the applicant, after submission to the governing body by the applicant of a written notice of intent to site a facility, may meet to discuss any matters pertaining to the site and the facility, including negotiations of a siting agreement. The time and place of any meeting shall be set by agreement, but at least 48 hours' notice shall be given to members of the governing body and the applicant.

B. The siting agreement may include any terms and conditions, including mitigation of adverse impacts and financial compensation to the host locality, concerning the facility.

C. The siting agreement shall be executed by the signatures of (i) the chief executive officer of the host locality, provided that the chief executive officer has been so directed by a majority vote of the local governing body, and (ii) the applicant or authorized agent.

D. No injunction, stay, prohibition, mandamus, or other order or writ shall lie against the conduct of negotiations or discussions concerning a siting agreement or against the agreement itself, unless conducted in violation of state or federal law.

§ 15.2-2316.9. Effect of executed siting agreement.

A. A fully executed siting agreement shall supersede any local ordinance or regulation that is inconsistent with the terms of the agreement. Nothing in this chapter shall affect the authority of the host locality to enforce its regulations and ordinances to the extent that they are not inconsistent with the terms and conditions of the siting agreement. Execution of a siting agreement shall not preclude or excuse the applicant from any other requirement to obtain approval or permits or other state or federal law. The siting agreement shall continue in effect until it is amended, revoked, or suspended.

B. The governing body of the host locality may enforce any regulation or ordinance to the extent provided by subsection A and the terms of the siting agreement.

2. That the provisions of this act shall not apply to any solar photovoltaic (electric energy) generation or storage facility that has received zoning and site plan approval, preliminary or

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59 otherwise, from the host locality on or before January 1, 2020.