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SENATE BILL NO. 1223

Offered January 13, 2021

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A BILL to amend and reenact §§ 67-102, 67-201, and 67-202 of the Code of Virginia, relating to transportation electrification; Virginia Energy Plan.

Patrons—Boysko, McClellan, Hashmi, Howell, Mason and Surovell; Delegates: Sullivan, Ayala and Reid

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 67-102, 67-201, and 67-202 of the Code of Virginia are amended and reenacted as follows:

§ 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 cost-effective conservation of energy and fuel supplies;

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.

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

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

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

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;

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;

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

13. Support the distributed generation of renewable electricity by:

a. Encouraging private sector investments in distributed renewable energy;

b. Increasing the security of the electricity grid by supporting distributed renewable energy projects with the potential to supply electric energy to critical facilities during a widespread power outage; and

c. Augmenting the exercise of private property rights by landowners desiring to generate their own energy from renewable energy sources on their lands.

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.

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

69 B. In addition, the Plan shall include:

70 1. Projections of energy consumption in the Commonwealth, including the use of fuel sources and
71 costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of
72 non-greenhouse-gas-generating energy resources, such as nuclear power, used in the Commonwealth;

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

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

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

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

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

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

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

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

94 10. *Data regarding the number and type of electric and hybrid electric vehicles currently registered*
95 *in the Commonwealth; projections of future electric vehicle sales across all vehicle classes, taking into*
96 *consideration the impact of current and potential statewide policies; and analysis of the impact that the*
97 *growth of electrified transit on the Commonwealth's electric system;*

98 11. *An analysis of the Commonwealth's current electric vehicle charging infrastructure and all future*
99 *infrastructure needed to support the 2045 net-zero carbon target in the transportation sector, including*
100 *chargers, make-ready electrical equipment, and supporting hardware and software needed to support the*
101 *electrification of all vehicle categories used on and off roads and highways, including light-duty,*
102 *medium-duty, and heavy-duty vehicles and electric bicycles, as well as that needed to electrify ground*
103 *transportation at all ports and airports, with particular attention to the needs of historically*
104 *economically disadvantaged communities as defined in § 56-576 and any state or local impediments to*
105 *deployment; and*

106 12. Recommendations, based on the analyses completed under subdivisions 1 through 9 *11*, for
107 legislative, regulatory, and other public and private actions to implement the elements of the
108 Commonwealth Energy Policy.

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

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

121 transmission lines, potential impacts of such a facility to natural and historic resources and to
122 economically disadvantaged or minority communities, and compatibility with the local land use plan.
123 The system developed pursuant to this section shall allow the suitability of the parcel for the siting of a
124 wind energy facility or solar energy facility to be compared to the suitability of other parcels so scored,
125 and shall be based on a scale that allows the suitability of the parcel for the siting of a such an energy
126 facility to be measured against the hypothetical score of an ideal location for such a facility.

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

133 **§ 67-202. Schedule.**

134 A. The Division shall complete the Plan by July 1, 2007.

135 B. Prior to completion of the Plan and updates thereof, the Division shall present drafts to, and
136 consult with, the Coal and Energy Commission and the Commission on Electric Utility Regulation.

137 C. The Plan shall be updated by the Division and submitted as provided in § 67-203 by July 1, 2010,
138 October 1, 2014, and every fourth October 1 thereafter. In addition, the Division shall provide interim
139 updates on the Plan by October 1 of the third year of each administration. Updated reports shall *specify*
140 *any progress attained toward each proposed action of the Plan, as well as* reassess goals for energy
141 conservation based on progress to date in meeting the goals in the previous plan and lessons learned
142 from attempts to meet such goals.

143 D. Beginning with the Plan update in 2014, the Division shall include a section to set forth energy
144 policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution
145 Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under
146 § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d). In this section of the Plan, the Division shall
147 address policy options for establishing separate standards of performance pursuant to § 111(d) of the
148 Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired electric
149 generating units to promote the Plan's overall goal of fuel diversity as follows:

150 1. The Plan shall address policy options for establishing the standards of performance for existing
151 coal-fired electric generating units, including but not limited to the following factors:

152 a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and
153 benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c)
154 the energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired
155 electric generating units that are subject to the standard of performance;

156 b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably
157 undertaken at each coal-fired electric generating unit; and

158 c. Increased efficiencies and other measures that can be implemented at each coal-fired electric
159 generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other
160 fuels, co-firing other fuels with coal, or limiting the utilization of the unit.

161 2. The Plan shall also address policy options for establishing the standards of performance for
162 existing gas-fired electric generating units, including but not limited to the following factors:

163 a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric
164 generating units, instead of to coal-fired electric generating units; and

165 b. Increased efficiencies and other measures that can be reasonably implemented at the unit to reduce
166 carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels
167 or limiting the utilization of the unit.

168 3. The Plan shall examine policy options for state regulatory action to adopt less stringent standards
169 or longer compliance schedules than those provided for in applicable federal rules or guidelines based on
170 analysis of the following:

171 a. Consumer impacts, including any disproportionate impacts of energy price increases on
172 lower-income populations;

173 b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic process
174 design;

175 c. Physical difficulties with or impossibility of implementing emission reduction measures;

176 d. The absolute cost of applying the performance standard to the unit;

177 e. The expected remaining useful life of the unit;

178 f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to
179 comply with the performance standard; and

180 g. Any other factors specific to the unit that make application of a less stringent standard or longer
181 compliance schedule more reasonable.

182 4. The Plan shall identify options, to the maximum extent permissible, for any federally required
183 regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units, regulatory
184 mechanisms that provide flexibility in complying with such standards, including the averaging of
185 emissions, emissions trading, or other alternative implementation measures that are determined to further
186 the interests of the Commonwealth and its citizens.