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HOUSE BILL NO. 2333

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Commerce and Labor
on February 20, 2023)

(Patron Prior to Substitute—Delegate Marshall)

A *BILL to amend the Code of Virginia by adding a section numbered 56-585.1:14, relating to electric utilities; small modular nuclear reactors; pilot program.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-585.1:14 as follows:

§ 56-585.1:14. Small modular reactors; pilot program.

A. As used in this section:

"Phase I Utility" and "Phase II Utility" have the same meanings as provided in subsection A of § 56-585.1.

"Site" means the geographic location of one small modular nuclear reactor.

"Small modular nuclear reactor" means an advanced nuclear reactor that produces nuclear power and has a power capacity of up to 400 megawatts per reactor.

B. The Commission may establish a small modular nuclear reactor pilot program under which any entity, including that entity's parent or affiliate, that holds a license from the U.S. Nuclear Regulatory Commission to construct or operate one or more existing nuclear electrical generating facilities at the time of the application may apply to the Commission for a certificate of public convenience and necessity, pursuant to subsection D of § 56-580 and consistent with the requirements of this section, to complete site permitting and construct and operate a small modular nuclear reactor that would qualify as an energy project in an energy community as defined in 26 U.S.C. § 48(a)(14) if granting the certificate will allow the applicant to apply for, use or leverage no less than 50 percent of construction costs by federal, state, or local funds, tax credits, grants, loan guarantees, or any other benefits or incentives that can be used to lower the capital or operating costs, directly or indirectly, of the small modular nuclear reactor provided that the costs and benefits of such program are reasonable and prudent relative to the levelized cost of producing electricity from other sources after application of federal, state, and local tax credits and incentives, including consideration of all fuel factor, economic, and environmental benefits, and any the costs associated with any relative externalities.

C. If established, the pilot program shall be limited to three small modular nuclear reactor sites in the Commonwealth. In considering an application for a certificate of public convenience and necessity for a small modular nuclear reactor under the pilot program, the Commission shall, as part of its public interest determination, consider whether (i) the project is consistent with the goals of the pilot program as provided in subsection B; (ii) the project is located (a) in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (b) on or adjacent to an existing or former coal electrical generation site operated by a Phase I or a Phase II Utility in the Commonwealth, or (c) at an existing nuclear facility or adjacent to such facility operated by a Phase I or Phase II Utility within the Commonwealth; (iii) the project is subject to competitive procurement or solicitation for services and equipment; and (iv) the costs and benefits of such program are reasonable and prudent relative to the levelized cost of producing electricity from other sources after application of federal, state, and local tax credits and incentives and after consideration of all fuel factor, economic, and environmental benefits, and any other costs associated with any relative externalities. Nothing herein shall be deemed to limit any other factors that the Commission may consider in connection with its determination.

D. The costs of a small modular nuclear reactor approved under this section, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date such facility constructed by the utility begins commercial operation. In the event a utility abandons a small modular nuclear reactor approved under this section prior to commercial operation, the utility shall not recover any capital costs regardless of whether such costs were reasonably and prudently incurred. The Commission may impose additional conditions it believes necessary to protect customers against unreasonable construction, development, or operational risk.

SENATE SUBSTITUTE

HB2333S1