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HOUSE BILL NO. 2389

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources on February 14, 2011)

(Patron Prior to Substitute—Delegate Pollard)

A BILL to amend and reenact §§ 62.1-198 and 62.1-199 of the Code of Virginia, relating to Virginia Resources Authority's financing of renewable energy projects.

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-198 and 62.1-199 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-198. Legislative findings and purposes.

The General Assembly finds that there exists in the Commonwealth a critical need for additional sources of funding to finance the present and future needs of the Commonwealth for water supply; land conservation or land preservation including land for parks and other recreational purposes; oyster restoration projects, including planting and replanting with seed oysters, oyster shells, or other material that will catch, support, and grow oysters; wastewater treatment facilities; drainage facilities; solid waste treatment, disposal and management facilities; recycling facilities; resource recovery facilities; energy conservation and energy efficiency projects; professional sports facilities; certain heavy rail transportation facilities; public safety facilities; airport facilities; the remediation of brownfields and contaminated properties, including properties contaminated by defective drywall; the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail; construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure; site acquisition and site development work for economic and community development projects; recovered gas energy facilities; and the location or retention of federal facilities in the Commonwealth and the support of the transition of former federal facilities from use by the federal government to other uses; and renewable energy projects, including solar, wind, biomass, waste-to-energy, and geothermal. This need can be alleviated in part through the creation of a resources authority. Its purpose is to encourage the investment of both public and private funds and to make loans, grants, and credit enhancements available to local governments to finance water and sewer projects, land conservation or land preservation programs or projects, oyster restoration projects, drainage projects, solid waste treatment, disposal and management projects, recycling projects, energy conservation and energy efficiency projects, professional sports facilities, resource recovery projects, public safety facilities, airport facilities, the remediation of brownfields and contaminated properties including properties contaminated by defective drywall, the design and construction of roads, public parking garages and other public transportation facilities, and facilities for public transportation by commuter rail, site acquisition and site development work for the benefit of economic development projects, technology, construction of local government buildings, including administrative and operations systems and other local government equipment and infrastructure, infrastructure for broadband services, recovered gas energy facilities, and federal facilities or former federal facilities, and renewable energy projects. The General Assembly determines that the creation of an authority for this purpose is in the public interest, serves a public purpose and will promote the health, safety, welfare, convenience or prosperity of the people of the Commonwealth.

§ 62.1-199. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

"Authority" means the Virginia Resources Authority created by this chapter.

"Board of Directors" means the Board of Directors of the Authority.

"Bonds" means any bonds, notes, debentures, interim certificates, bond, grant or revenue anticipation notes, lease and sale-leaseback transactions or any other evidences of indebtedness of the Authority.

"Capital Reserve Fund" means the reserve fund created and established by the Authority in accordance with § 62.1-215.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning and feasibility studies, surveys, plans and specifications, architectural, engineering, financial, legal or other special services, the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings or improvements, real estate appraisals, site preparation and development, including demolition or removal of existing structures, construction and reconstruction, labor, materials, machinery and equipment, the reasonable costs of financing incurred by the local government in the course of the development of the project, including the cost of any credit enhancements, carrying charges incurred

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60 before placing the project in service, interest on local obligations issued to finance the project to a date  
61 subsequent to the estimated date the project is to be placed in service, necessary expenses incurred in  
62 connection with placing the project in service, the funding of accounts and reserves which the Authority  
63 may require and the cost of other items which the Authority determines to be reasonable and necessary.  
64 It also includes the amount of any contribution, grant or aid which a local government may make or  
65 give to any adjoining state, the District of Columbia or any department, agency or instrumentality  
66 thereof to pay the costs incident and necessary to the accomplishment of any project, including, without  
67 limitation, the items set forth above. The term also includes interest and principal payments pursuant to  
68 any installment purchase agreement.

69 "Credit enhancements" means surety bonds, insurance policies, letters of credit, guarantees and other  
70 forms of collateral or security.

71 "Defective drywall" means the same as that term is defined in § 36-156.1.

72 "Federal facility" means any building or infrastructure used or to be used by the federal government,  
73 including any building or infrastructure located on lands owned by the federal government.

74 "Federal government" means the United States of America, or any department, agency or  
75 instrumentality, corporate or otherwise, of the United States of America.

76 "Former federal facility" means any federal facility formerly used by the federal government or in  
77 transition from use by the federal government to a facility all or part of which is to serve any local  
78 government.

79 "Local government" means any county, city, town, municipal corporation, authority, district,  
80 commission or political subdivision created by the General Assembly or pursuant to the Constitution and  
81 laws of the Commonwealth or any combination of any two or more of the foregoing.

82 "Local obligations" means any bonds, notes, debentures, interim certificates, bond, grant or revenue  
83 anticipation notes, leases or any other evidences of indebtedness of a local government.

84 "Minimum capital reserve fund requirement" means, as of any particular date of computation, the  
85 amount of money designated as the minimum capital reserve fund requirement which may be established  
86 in the resolution of the Authority authorizing the issuance of, or the trust indenture securing, any  
87 outstanding issue of bonds or credit enhancement.

88 "Project" means (i) any water supply or wastewater treatment facility including a facility for  
89 receiving and stabilizing septage or a soil drainage management facility and any solid waste treatment,  
90 disposal, or management facility, recycling facility, federal facility or former federal facility, or resource  
91 recovery facility located or to be located in the Commonwealth, the District of Columbia or any  
92 adjoining state, all or part of which facility serves or is to serve any local government; and (ii) any  
93 federal facility located or to be located in the Commonwealth, provided that both the Board of Directors  
94 of the Authority and the governing body of the local government receiving the benefit of the loan, grant,  
95 or credit enhancement from the Authority make a determination or finding to be embodied in a  
96 resolution or ordinance that the undertaking and financing of such facility is necessary for the location  
97 or retention of such facility and the related use by the federal government in the Commonwealth. The  
98 term includes, without limitation, water supply and intake facilities; water treatment and filtration  
99 facilities; water storage facilities; water distribution facilities; sewage and wastewater (including surface  
100 and ground water) collection, treatment and disposal facilities; drainage facilities and projects; solid  
101 waste treatment, disposal or management facilities; recycling facilities; resource recovery facilities;  
102 related office, administrative, storage, maintenance and laboratory facilities; and interests in land related  
103 thereto. The term also includes energy conservation measures and facility technology infrastructure as  
104 defined in § 11-34.2 and other energy objectives as defined in § 67-101. The term also means any heavy  
105 rail transportation facilities operated by a transportation district, created under the Transportation District  
106 Act of 1964 (§ 15.2-4500 et seq.), which operates heavy rail freight service, including rolling stock,  
107 barge loading facilities, and any related marine or rail equipment. The term also means, without  
108 limitation, the design and construction of roads, the construction of local government buildings,  
109 including administrative and operations systems and other local government equipment and  
110 infrastructure, public parking garages and other public transportation facilities, and facilities for public  
111 transportation by commuter rail. In addition, the term means any project as defined in § 5.1-30.1 and  
112 any professional sports facility, including a major league baseball stadium as defined in § 15.2-5800,  
113 provided that the specific professional sports facility projects have been designated by the General  
114 Assembly as eligible for assistance from the Authority. The term also means any equipment, facilities,  
115 and technology infrastructure designed to provide broadband service. The term also means facilities  
116 supporting, related to, or otherwise used for public safety including, but not limited to, law-enforcement  
117 training facilities and emergency response, fire, rescue and police stations. The term also means the  
118 remediation, redevelopment and rehabilitation of property contaminated by the release of hazardous  
119 substances, hazardous wastes, solid wastes or petroleum where such remediation has not clearly been  
120 mandated by the United States Environmental Protection Agency, the Department of Environmental  
121 Quality, or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability

122 Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.),  
123 the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et  
124 seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been  
125 waived. The term also means any program or project for land conservation, parks, park facilities, land  
126 for recreational purposes, or land preservation, including but not limited to any program or project  
127 involving the acquisition of rights or interests in land for the conservation or preservation of such land.  
128 The term also means any oyster restoration project, including planting and replanting with seed oysters,  
129 oyster shells, or other material that will catch, support, and grow oysters. The term also means any  
130 program or project to perform site acquisition or site development work for the benefit of economic and  
131 community development projects for any local government. The term also means any undertaking by a  
132 local government to build or facilitate the building of a recovered gas energy facility; *and any local*  
133 *government renewable energy project, including solar, wind, biomass, waste-to-energy, and geothermal*  
134 *projects*. The term also means any undertaking by a local government to facilitate the remediation of  
135 residential properties contaminated by the presence of defective drywall.

136 "Recovered gas energy facility" means a facility, located at or adjacent to (i) a solid waste  
137 management facility permitted by the Department of Environmental Quality or (ii) a sewerage system or  
138 sewage treatment work described in § 62.1-44.18 that is constructed and operated for the purpose of  
139 treating sewage and wastewater for discharge to state waters, which facility or work is constructed and  
140 operated for the purpose of (a) reclaiming or collecting methane or other combustible gas from the  
141 biodegradation or decomposition of solid waste, as defined in § 10.1-1400, that has been deposited in  
142 the solid waste management facility or sewerage system or sewage treatment work and (b) either using  
143 such gas to generate electric energy or upgrading the gas to pipeline quality and transmitting it off  
144 premises for sale or delivery to commercial or industrial purchasers or to a public utility or locality.