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HOUSE BILL NO. 2267

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 5, 2015)

(Patron Prior to Substitute—Delegate Hugo)

A *BILL* to amend the Code of Virginia by adding in Title 67 a chapter numbered 15, consisting of sections numbered 67-1500 through 67-1509, relating to the Virginia Solar Energy Development Authority.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 67 a chapter numbered 15, consisting of sections numbered 67-1500 through 67-1509, as follows:

CHAPTER 15.**VIRGINIA SOLAR ENERGY DEVELOPMENT AUTHORITY.****§ 67-1500. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Solar Energy Development Authority created pursuant to this chapter.

"Developer" means any private developer of solar energy projects.

"Solar energy project" means an electric generation facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

§ 67-1501. Authority created; purpose.

The Virginia Solar Energy Development Authority is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the solar energy industry and solar energy projects by developing programs that increase the availability of financing for solar energy projects, facilitate the increase of solar energy generation systems on public and private sector facilities in the Commonwealth, promote the growth of the Virginia solar industry, and provide a hub for collaboration between entities, both public and private, to partner on solar energy projects. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.

§ 67-1502. Membership; terms; vacancies; expenses.

A. The Authority shall be composed of 11 nonlegislative citizen members appointed as follows. Six members shall be appointed by the Governor; three members shall be appointed by the Speaker of the House of Delegates; and two members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth. Members may include representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar customers, and solar research academics.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members by the Governor shall be as follows: two members shall be appointed for terms of four years, two members shall be appointed for terms of three years, and two members shall be appointed for terms of two years. The initial appointments of members by the Speaker of the House of Delegates shall be as follows: one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, and one member shall be appointed for a term of two years. The initial appointments of members by the Senate Committee on Rules shall be as follows: one member shall be appointed for a term of four years, and one member shall be appointed for a term of three years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all

60 reasonable and necessary expenses incurred in the performance of their duties as provided in
61 §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the
62 Authority by the General Assembly.

63 F. Members of the Authority shall be subject to the standards of conduct set forth in the State and
64 Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for
65 misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

66 G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the
67 provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

68 **§ 67-1503. Partnerships.**

69 A. The Authority may establish public-private partnerships with entities pursuant to the
70 Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) to increase the
71 number of solar energy generation systems on or located adjacent to public and private facilities in the
72 Commonwealth. Any partnership established pursuant to this section shall stipulate that the Authority
73 and the developers shall share the costs of the installation and operation of solar energy facilities and
74 equipment.

75 B. The Authority may provide a central hub for appropriate entities, both public and private, to enter
76 into partnerships that result in solar energy generation projects being developed in the Commonwealth.
77 The Authority may act as a good faith broker in these matters to facilitate appropriate partnerships,
78 including public-private partnerships.

79 **§ 67-1504. Federal loan guarantees.**

80 A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for
81 federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of
82 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. 111-5, or
83 other similar federal legislation, to facilitate the development of solar energy projects.

84 B. Upon obtaining federal loan guarantees for solar energy projects pursuant to subsection A, the
85 Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions
86 thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate.
87 Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be
88 exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to
89 subdivision B 4 of § 2.2-4002. Decisions of the Authority shall be final and not subject to review or
90 appeal.

91 **§ 67-1505. Powers and duties of the Authority.**

92 In addition to such other powers and duties established under this chapter, the Authority shall have
93 the power and duty to:

94 1. Adopt, use, and alter at will an official seal;

95 2. Make bylaws for the management and regulation of its affairs;

96 3. Maintain an office at such place or places within the Commonwealth as it may designate;

97 4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or
98 bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes
99 for which the Authority is created;

100 5. Make and execute contracts and all other instruments and agreements necessary or convenient for
101 the exercise of its powers and functions;

102 6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial
103 experts, investment bankers, superintendents, managers, and such other employees and agents as may be
104 necessary and fix their compensation to be payable from funds made available to the Authority;

105 7. Invest its funds as permitted by applicable law;

106 8. Receive and accept from any federal or private agency, foundation, corporation, association, or
107 person grants, donations of money, or real or personal property for the benefit of the Authority, and
108 receive and accept from the Commonwealth or any state, and from any municipality, county, or other
109 political subdivision thereof and any other source, aid or contributions of either money, property, or
110 other things of value, to be held, used, and applied for the purposes for which such grants and
111 contributions may be made;

112 9. Enter into agreements with any department, agency, or instrumentality of the United States or of
113 the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of
114 planning, regulating, and providing for the financing or assisting in the financing of any project;

115 10. Do any lawful act necessary or appropriate to carry out the powers herein granted or
116 reasonably implied;

117 11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the
118 development of the solar energy industry, including facilitating any permitting processes;

119 12. Enter into interstate partnerships to develop the solar energy industry and solar energy projects;

120 13. Collaborate with entities, including institutions of higher education, to increase the training and
121 development of the workforce needed by the solar industry in the Commonwealth, including

industry-recognized credentials and certifications; and

14. Conduct any other activities as may seem appropriate to increase solar energy generation in the Commonwealth and the associated jobs and economic development and competitiveness benefits.

§ 67-1506. Director; staff; counsel to the Authority.

A. The Director of the Department of Mines, Minerals and Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for this support may be provided by any source, public or private, for the purposes for which the Authority is created. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Department of Mines, Minerals and Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

§ 67-1507. Annual report.

On or before October 15 of each year, beginning in 2016, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairmen of the House Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and Labor Committees.

§ 67-1508. Confidentiality of information.

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of solar energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 67-1509. Declaration of public purpose; exemption from taxation.

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.