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HOUSE BILL NO. 1490

Offered January 18, 2018

A *BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-399, relating to the transition of the Commonwealth to a 100 percent clean energy economy; clean energy mandates; moratorium on new major fossil fuel projects; climate action plan.*

Patrons—Rasoul and McQuinn

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 45.1 a chapter numbered 27, consisting of sections numbered 45.1-395 through 45.1-399, as follows:

CHAPTER 27.**DECREASED RELIANCE ON FOSSIL FUELS ACT.****§ 45.1-395. Definitions.**

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

"Clean energy" means energy efficiency, energy conservation, demand response, energy storage, and energy derived from solar, onshore wind, offshore wind, geothermal, and ocean tidal sources.

"Fossil fuel" or "fossil fuel resource" means coal, petroleum, natural gas, or any derivative of coal, petroleum, or natural gas that is used for fuel.

"Fossil fuel energy" means electric energy generated, in whole or in part, by a fossil fuel resource.

"Gathering line" has the same meaning ascribed to the term in 49 C.F.R. § 195.2.

"Permitting agency" means the Department, State Corporation Commission, State Air Pollution Control Board, State Water Control Board, Solid Waste Management Board, Department of Environmental Quality, or other state agency or subdivision of the Commonwealth that is the issuing agent for any permit, certificate, or other approval that is required to be obtained prior to the construction or operation of any facility described in subsection A of § 45.1-397.

"Retail electric supplier" means a public utility or other person that (i) sold not less than 1,000 megawatt hours of electric energy to retail customers during the preceding calendar year or (ii) generates not less than 1,000 megawatt hours of electric energy for use by the person.

§ 45.1-396. Clean energy mandates.

A. The minimum annual percentage of the quantity of electricity sold by a retail electric supplier that is generated from clean energy resources shall be:

- 1. In calendar years 2027 through 2034, 80 percent; and*
- 2. In calendar year 2035 and every calendar year thereafter, 100 percent.*

B. Beginning in 2019, by April 1 of each year, each retail electric supplier shall submit a report to the Director containing:

1. Documentation of purchases or generation by the retail electricity supplier of clean energy source electricity as a percentage of the total retail electricity sales of the retail electricity supplier in the preceding year.

2. Documentation of plans for the purchase or generation by the retail electricity supplier of clean energy sourced electricity equal to the percentage required by this chapter for retail electricity sales in 2027 through 2035 and years thereafter.

§ 45.1-397. Moratorium on new major fossil fuel projects.

A. Beginning on January 1, 2019, unless preempted by applicable federal law, there shall be a moratorium on approval by the Department or any other permitting agency of any permit, certificate, or other approval required for:

1. Any new electric generating facility that generates fossil fuel energy through the combustion of any fossil fuel resource;

2. Any new or expanding import or export terminal for fossil fuel resources;

3. Any maintenance activity relating to an existing import or export terminal for a fossil fuel resource that expands the import or export capacity for a fossil fuel resource;

4. Any new gathering line or pipeline for the transport of any fossil fuel resource that requires the use of eminent domain on private property;

5. Any maintenance activity relating to an existing gathering line or pipeline for the transport of a fossil fuel resource that expands the carrying capacity of the gathering line or pipeline by more than five percent;

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59 6. Any new refinery of a fossil fuel resource; and

60 7. Any exploration for any type of fossil fuel.

61 B. The applicable permitting agency shall deny any application submitted to a permitting agency on
62 or after January 1, 2019, for a permit, certificate, or approval for the construction, installation,
63 expansion, or operation of any facility or activity described in subdivisions A 1 through 7.

64 **§ 45.1-398. Authority of Director; enforcement of chapter by injunction.**

65 A. The Director shall promulgate such rules and regulations as may be necessary and proper to
66 carry out the provisions of this chapter.

67 B. The authority to administer and enforce the provisions of this chapter is hereby vested in the
68 Director. In administering and enforcing the provisions of this chapter, the Director shall exercise the
69 following powers in addition to any other powers conferred upon him by law:

70 1. To supervise the administration and enforcement of this chapter and all rules and regulations and
71 orders promulgated hereunder;

72 2. To issue orders to enforce the provisions of this chapter and all rules and regulations
73 promulgated hereunder;

74 3. To make investigations and inspections to ensure compliance with any provision of this chapter or
75 any rules, regulations, or orders promulgated hereunder; and

76 4. To receive any federal funds, state funds, or any other funds and to enter into any contracts, for
77 which funds are available, to carry out the purposes of this chapter.

78 C. The Director may petition any court of competent jurisdiction for an injunction against any
79 violation of the provisions of this chapter and the rules, regulations, and orders promulgated hereunder
80 or to compel the performance of acts required thereby without regard to any adequate remedy that may
81 exist at law, such injunction to be issued without bond.

82 **§ 45.1-399. Climate action plans.**

83 A. The Department shall adopt a Climate Action Plan to implement the goals established in this
84 chapter. The Climate Action Plan shall:

85 1. Address all aspects of climate change, including mitigation, adaptation, and resiliency;

86 2. Address agriculture, heating, cooling, and transportation;

87 3. Be completed by January 1, 2020, with a draft plan available for public comment by March 1,
88 2019;

89 4. Include provisions for a Just Transition, which shall include providing training and ensuring
90 comparable jobs and wages to individuals presently engaged in the fossil fuel industry;

91 5. Support the development of community and publicly owned renewable energy; and

92 6. Incorporate goals of environmental justice and be developed with meaningful input and analysis
93 from environmental justice organizations.

94 B. The Department shall conduct regional public hearings on the draft plan.

95 C. State agencies shall be required to take action and adopt regulations that are consistent with and
96 further the goals of the Climate Action Plan. Each state agency shall develop and update annually a
97 plan to achieve such goals for its own internal operations as well as for regulatory and other actions
98 under its purview.

99 D. The Department shall ensure that the Climate Action Plan will advance the goal of 100 percent
100 renewable energy in a manner that benefits the Commonwealth's most disadvantaged communities and is
101 transparent and accountable to the public and the General Assembly.

102 E. The Climate Action Plan shall ensure that 40 percent of funds allocated by and through the
103 Commonwealth to deal with climate change shall be targeted to low-income communities and
104 communities of color disproportionately.

105 F. The Department shall establish a statewide Environmental and Climate Justice Task Force of
106 impacted community groups to assist in the development and implementation of the Climate Action Plan.

107 G. Residents of the Commonwealth and organizations shall have the legal standing to sue to ensure
108 that the provisions of this chapter and any Climate Action Plan adopted pursuant to this section are
109 enforced.