

# 2019 SESSION

SENATE SUBSTITUTE

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## SENATE BILL NO. 1573

### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on January 24, 2019)

(Patron Prior to Substitute—Senator DeSteph)

A *BILL to amend and reenact §§ 28.2-1208 and 67-102 of the Code of Virginia and to repeal § 67-300 of the Code of Virginia, relating to offshore oil and gas drilling.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28.2-1208 and 67-102 of the Code of Virginia are amended and reenacted as follows:**  
**§ 28.2-1208. Granting easements in or leasing the beds of certain waters.**

A. The Marine Resources Commission may, with the approval of the Attorney General and the Governor, grant easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed five years, except in the case of offshore renewable energy leases described in clause (ii), in which case the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient and proper. Such easements and leases may include the right to renew the same for an additional period not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from the bottoms covered thereby, oil, gas, and other specified minerals and mineral substances; or (ii) generate electrical energy from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase payment for any easement granted to a public service corporation, certificated telephone company, interstate natural gas company or provider of cable television or other multichannel video programming service shall be \$100 and shall be for a period of 40 years. However, no easement or lease shall in any way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased bottoms or the waters above.

B. All easements granted and leases made pursuant to this section shall be executed for, and in the name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the Governor.

C. All Any oil, gas and other minerals royalties collected from such easements or leases on and after July 1, 2000, shall be paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All royalties collected as a result of the generation or transmission of electrical or compressed air energy from offshore renewable sources including wave or tidal action, currents, offshore winds, and thermal or salinity gradients shall be paid into the state treasury and appropriated to the Virginia Coastal Energy Research Consortium established pursuant to § 67-600.

D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports to the General Assembly on all easements and leases executed pursuant to this section during the preceding 12 months.

E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the Department of Mines, Minerals and Energy (*the Department*) and with the assistance of affected state agencies, departments and institutions, including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in § 2.2-1157 and the Virginia Energy Plan (§ 67-200 et seq.). The State Subaqueous Minerals and Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii) public advertising for competitive bids or proposals for mineral and renewable energy leasing and extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the Governor as required by subsection A. The environmental impact reports shall address, but not be limited to:

1. The environmental impact of the proposed activity;
2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
3. Measures proposed to minimize the impact of the proposed activity;
4. Any alternative to the proposed activity; and
5. Any irreversible environmental changes which would be involved in the proposed activity.

For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

F. Notwithstanding any other provision of law, including any contrary provision of this section, neither the Commission nor the Department shall (i) allow on the beds of the Commonwealth's

SENATE SUBSTITUTE

SB1573S1

60 territorial sea, as defined in § 28.2-100, exploration or drilling for, or extraction, development, or  
61 production of, natural gas or oil or (ii) authorize the construction of infrastructure specifically  
62 associated with offshore oil or natural gas leases in the Atlantic Ocean on the beds of any waters of the  
63 Commonwealth.

64 **§ 67-102. Commonwealth Energy Policy.**

65 A. To achieve the objectives enumerated in § 67-101, it shall be the policy of the Commonwealth to:

66 1. Support research and development of, and promote the use of, renewable energy sources;

67 2. Ensure that the combination of energy supplies and energy-saving systems are sufficient to support  
68 the demands of economic growth;

69 3. Promote research and development of clean coal technologies, including but not limited to  
70 integrated gasification combined cycle systems;

71 4. Promote cost-effective conservation of energy and fuel supplies;

72 5. Ensure the availability of affordable natural gas throughout the Commonwealth by expanding  
73 Virginia's natural gas distribution and transmission pipeline infrastructure; developing coalbed methane  
74 gas resources and methane hydrate resources; encouraging the productive use of landfill gas; and siting  
75 one or more liquefied natural gas terminals;

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

78 7. Facilitate the development of new, and the expansion of existing, petroleum refining facilities  
79 within the Commonwealth;

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

81 9. Support efforts to reduce the demand for imported petroleum by developing alternative  
82 technologies, including but not limited to the production of synthetic and hydrogen-based fuels, and the  
83 infrastructure required for the widespread implementation of such technologies;

84 10. Promote the sustainable production and use of biofuels produced from silvicultural and  
85 agricultural crops grown in the Commonwealth, and support the delivery infrastructure needed for  
86 statewide distribution to consumers;

87 11. *Support federal efforts to examine the feasibility of offshore wind energy being utilized in an  
88 environmentally responsible fashion;*

89 12. Ensure that development of new, or expansion of existing, energy resources or facilities does not  
90 have a disproportionate adverse impact on economically disadvantaged or minority communities; and

91 13. Ensure that energy generation and delivery systems that may be approved for development in  
92 the Commonwealth, including liquefied natural gas and related delivery and storage systems, should be  
93 located so as to minimize impacts to pristine natural areas and other significant onshore natural  
94 resources, and as near to compatible development as possible.

95 B. The elements of the policy set forth in subsection A shall be referred to collectively in this title as  
96 the Commonwealth Energy Policy.

97 C. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with  
98 regard to energy issues, shall recognize the elements of the Commonwealth Energy Policy and where  
99 appropriate, shall act in a manner consistent therewith.

100 D. The Commonwealth Energy Policy is intended to provide guidance to the agencies and political  
101 subdivisions of the Commonwealth in taking discretionary action with regard to energy issues, and shall  
102 not be construed to amend, repeal, or override any contrary provision of applicable law. The failure or  
103 refusal of any person to recognize the elements of the Commonwealth Energy Policy, to act in a manner  
104 consistent with the Commonwealth Energy Policy, or to take any other action whatsoever, shall not  
105 create any right, action, or cause of action or provide standing for any person to challenge the action of  
106 the Commonwealth or any of its agencies or political subdivisions.

107 2. That § 67-300 of the Code of Virginia is repealed.