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SENATE BILL NO. 1707

Offered January 15, 2019

A BILL to amend the Code of Virginia by adding in Title 67 a chapter numbered 16, consisting of sections numbered 67-1600 through 67-1608, relating to the establishment of the Southwest Virginia Energy Research and Development Authority.

Patron—Chafin

Referred to Committee on Local Government

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 16, consisting of sections numbered 67-1600 through 67-1608, as follows:

CHAPTER 16.

SOUTHWEST VIRGINIA ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

§ 67-1600. Definitions.

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

"Authority" means the Southwest Virginia Energy Research and Development Authority created pursuant to this chapter.

"Developer" means any private developer of an energy development project in Southwest Virginia.

"Energy development project" means an electric generation facility located within Southwest Virginia and includes interests in land, improvements, and ancillary facilities.

"Southwest Virginia" means the region of the Commonwealth designated as Southwest Virginia in § 22.1-350.

§ 67-1601. Authority created; purpose.

The Southwest Virginia Energy Research and 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 promoting opportunities for energy development in Southwest Virginia, to create jobs and economic activity in Southwest Virginia consistent with the Virginia Energy Plan prepared pursuant to Chapter 2 (§ 67-200 et seq.), and to position Southwest Virginia and the Commonwealth as a leader in energy workforce and energy technology research and development. 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.

§ 67-1602. Membership; terms; vacancies; expenses.

A. The Authority shall be composed of 11 nonlegislative citizen members appointed as follows: Four members shall be appointed by the Governor, four members shall be appointed by the Speaker of the House of Delegates, and three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth.

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 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.

D. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

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

F. Except as otherwise provided in this chapter, members of the Authority shall be subject to the

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59 provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

60 **§ 67-1603. Powers and duties of the Authority.**

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

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

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

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

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

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

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

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

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

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

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

86 11. Leverage the strength in energy workforce and energy technology research and development of
87 Virginia's public and private institutions of higher education;

88 12. Support the development of pump storage hydropower in Southwest Virginia and energy storage
89 generally;

90 13. Promote the development of renewable energy generation facilities on brownfield sites, including
91 abandoned mine sites;

92 14. Promote energy workforce development;

93 15. Assist energy technology research and development by, among other actions, promoting the
94 development of a Southwest Virginia Energy Park; and

95 16. Identify and work with the Commonwealth's industries and nonprofit partners in advancing
96 efforts related to energy development in Southwest Virginia.

97 **§ 67-1604. Director; staff; counsel to the Authority.**

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

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

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

111 **§ 67-1605. Annual report.**

112 On or before October 15 of each year, beginning in 2020, the Authority shall submit an annual
113 summary of its activities and recommendations to the Governor and the Chairmen of the House
114 Appropriations Committee, the Senate Finance Committee, and the House and Senate Commerce and
115 Labor Committees.

116 **§ 67-1606. Confidentiality of information.**

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

119 B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any
120 information that has been transformed into a statistical or aggregate form that does not allow the

121 identification of the person who supplied particular information.

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

126 **§ 67-1607. Declaration of public purpose; exemption from taxation.**

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

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

133 **§ 67-1608. Sunset.**

134 The provisions of this chapter shall expire on July 1, 2029.