

20102438D

HOUSE BILL NO. 77

Offered January 8, 2020

Prefiled December 6, 2019

A *BILL to amend the Code of Virginia by adding in Title 45.1 a chapter numbered 28, consisting of sections numbered 45.1-401 through 45.1-410, relating to the transition of the Commonwealth to a 100 percent clean energy economy; clean energy mandates; moratorium on new major fossil fuel projects; energy efficiency requirements for buildings; transitioning workers; environmental justice practices; Climate Action Plan; civil penalties; Green New Deal Act.*

Patrons—Rasoul, Guzman, Aird, Carroll Foy, Cole, J.G., Hope, Jenkins, Keam, Kory, Plum, Roem and Samirah; Senators: Favola and Morrissey

Referred to Committee on Labor and Commerce

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 28, consisting of sections numbered 45.1-401 through 45.1-410, as follows:

CHAPTER 28.**GREEN NEW DEAL ACT.****§ 45.1-401. 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.

"Environmental justice community" means a census block in which residents (i) are predominantly minorities or low-income individuals; (ii) have been excluded from the environmental policy-setting or decision-making process; (iii) are subject to a disproportionate impact from one or more environmental hazards; and (iv) experience disparate implementation of environmental regulations, requirements, practices, and activities.

"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, Virginia Waste Management Board, Department of Environmental Quality, or other state agency or political 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 § 45.1-403.

"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.

§ 45.1-402. 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 2028 through 2035, 80 percent; and

2. In calendar year 2036 and every calendar year thereafter, 100 percent.

B. Beginning in 2021, 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 electric supplier of clean energy sourced electricity as a percentage of the total retail electricity sales of the retail electric supplier in the preceding calendar year; and

2. Documentation of plans for the purchase or generation by the retail electric supplier of clean energy sourced electricity equal to the percentage required by this chapter for retail electricity sales in 2028 through 2035 and in 2036 and every year thereafter.

§ 45.1-403. Moratorium on new major fossil fuel projects.

A. Beginning on January 1, 2021, unless preempted by applicable federal law, there shall be a moratorium on approval by any 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;

INTRODUCED

HB77

- 58 2. Any new or expanding import or export terminal for fossil fuel resources;
59 3. Any maintenance activity relating to an existing import or export terminal for a fossil fuel
60 resource that expands the import or export capacity for a fossil fuel resource;
61 4. Any new gathering line or pipeline for the transport of any fossil fuel resource that requires the
62 use of eminent domain on private property;
63 5. Any maintenance activity relating to an existing gathering line or pipeline for the transport of a
64 fossil fuel resource that expands the carrying capacity of the gathering line or pipeline by more than
65 five percent;
66 6. Any new refinery of a fossil fuel resource; and
67 7. Any exploration for any type of fossil fuel.

68 B. Unless preempted by applicable federal law, the applicable permitting agency shall deny any
69 application submitted to such permitting agency on or after January 1, 2021, for a permit, certificate, or
70 approval for the construction, installation, expansion, or operation of any facility or activity described
71 in subsection A.

72 **§ 45.1-404. Authority of Director; enforcement of chapter by injunction.**

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

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

- 78 1. To supervise the administration and enforcement of this chapter and all rules and regulations and
79 orders adopted hereunder;
80 2. To issue orders to enforce the provisions of this chapter and all rules and regulations
81 promulgated hereunder;
82 3. To make investigations and inspections to ensure compliance with any provision of this chapter or
83 any rules, regulations, or orders promulgated or issued hereunder; and
84 4. To receive any federal funds, state funds, or any other funds and to enter into any contracts for
85 which funds are available to carry out the purposes of this chapter.

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

90 **§ 45.1-405. Climate Action Plan.**

91 A. The Department shall adopt a Climate Action Plan to implement the requirements established in
92 this chapter. The Climate Action Plan shall:

- 93 1. Address all aspects of climate change, including mitigation, adaptation, and resiliency;
94 2. Address agriculture, heating, cooling, and transportation;
95 3. Be completed by January 1, 2022, with a draft plan available for public comment by March 1,
96 2021;
97 4. Support the development of community and publicly owned clean energy; and
98 5. Incorporate goals of environmental justice and be developed with meaningful input and analysis
99 from environmental justice organizations.

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

101 C. Permitting agencies shall take action and adopt regulations that are consistent with and further
102 the goals of the Climate Action Plan. Each permitting agency shall develop and update annually a plan
103 to achieve such goals for its own internal operations as well as for regulatory and other actions under
104 its purview.

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

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

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

113 G. The Department shall implement programs that provide a just transition from current energy
114 sources to clean energy by developing, in conjunction with the Department of Labor and Industry,
115 programs, including job training programs as provided in subsection A of § 45.1-407, relocation
116 assistance, higher-education programs, and temporary financial support that extends the duration of
117 unemployment benefits, that assist workers in transitioning from jobs in the fossil fuel and nuclear
118 power industries into jobs in the clean energy sector. The programs developed by the Department
119 pursuant to this subsection shall also be open to individuals who are determined by the Department to

(i) have been previously employed in the fossil fuel industry and who are out of work due to reduction in demand for jobs in that industry or (ii) reside in communities that have been disproportionately affected by fossil fuels.

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

§ 45.1-406. Energy efficiency of buildings.

A. The Commonwealth shall have a stated goal of reducing the consumption of electric energy for heating, cooling, lighting, and appliances in buildings within the Commonwealth by 2035 to a level that is 36 percent less than the quantity of electricity that would reasonably be projected to be consumed in the Commonwealth for such purposes in 2035 in the absence of such actions. Such goal shall have benchmark goals of 2.4 percent per year of the electric energy consumption for such purposes from 2020 levels.

B. Efforts to attain the goals set forth in subsection A shall focus on the following:

1. Weatherizing building envelopes to prevent heating and cooling leaks;
2. Upgrading heating and cooling equipment with energy-efficient electric equipment;
3. Modernizing lighting; and
4. Replacing inefficient appliances and devices with energy-efficient electric devices.

C. The goals set forth in subsection A shall be accomplished through (i) public and utility investment in energy efficiency programs, including grants, rebates, and credits on bills or taxes, and (ii) requiring utilities to meet energy efficiency standards as may be enacted by the General Assembly.

D. In order to facilitate meeting the goals set forth in subsection A, the Department shall work with the Department of Housing and Community Development to revise the Uniform Statewide Building Code to:

1. Prohibit the use of natural gas in newly constructed residential buildings;
2. Require, where feasible, the installation of rooftop solar generation devices for new construction and major renovations of residential buildings;
3. Require that, where the installation of rooftop solar generation devices is not feasible, residential buildings that are newly constructed or undergo major renovations have access to community solar generation facilities;
4. Require the installation of electric vehicle-charging infrastructure for all new residential construction;
5. Establish energy-efficient construction standards; and
6. Require the installation of energy-efficient appliances in all new residential construction.

§ 45.1-407. Transitioning workers.

A. The Department, in conjunction with the Virginia Board of Workplace Development, shall develop job training programs that include:

1. The development of trade programs in high schools and community colleges; and
2. Scholarships and forgivable education loans for people who work in the clean energy and energy efficiency sectors.

B. The Department shall develop guidelines for clean energy worker protections. Such guidelines shall:

1. Require the use of project labor agreements or otherwise provide for the payment of a prevailing wage for clean energy and energy efficiency jobs; and
2. Protect the rights of individuals to freely join a union without interference from employers.

C. The Department shall develop a program of transition assistance for workers in the fossil fuel industry and affected communities. The program shall include:

1. Job training support;
2. Relocation support;
3. Income and benefit support; and
4. Early retirement benefits.

§ 45.1-408. Environmental justice protections.

A. The Department shall (i) determine which census tracts in the Commonwealth are environmental justice communities and (ii) establish performance benchmarks for environmental justice communities. Such benchmarks shall:

1. Mandate that 40 percent of funding for energy efficiency programs in the Commonwealth be directed to energy efficiency measures in environmental justice communities until such date that energy efficacy goals in environmental justice communities are attained; and
2. Mandate that 40 percent of funding for programs directed at attaining annual clean energy goals be directed to investments in clean energy facilities in environmental justice communities until such date that 100 percent of the energy consumed in such communities is clean energy.

181 *B. The Department shall establish programs for jobs for people in environmental justice*
182 *communities. Such programs shall:*

183 *1. Provide scholarships and low-interest loans for job training programs prioritized for individuals*
184 *living in environmental justice communities;*

185 *2. Ensure that job training programs exist in environmental justice communities and are adequate to*
186 *meet employment goals; and*

187 *3. Mandate that 50 percent of the workforce for energy efficiency and clean energy programs comes*
188 *from environmental justice communities.*

189 *C. The Department shall provide meaningful input and analysis in planning for energy transition and*
190 *energy efficiency from environmental justice communities throughout the Commonwealth. In*
191 *implementing this requirement, the Department shall:*

192 *1. Establish statewide and regional bodies responsible for developing, evaluating, and providing*
193 *feedback on meeting environmental justice priorities; and*

194 *2. Hold multiple public hearings in environmental justice communities on transition plans.*

195 *D. The Department shall not allow offsets to meet clean energy or energy efficiency goals. The*
196 *Department shall ensure that benefits for low-income communities are specific and realized. The*
197 *Department shall prevent the use of compliance payment or other offsets to meet clean energy and*
198 *energy efficiency goals.*

199 *E. In order to provide accountability for meeting environmental justice benchmarks, the Department*
200 *shall:*

201 *1. Require annual reporting on progress, including specifics on goals for environmental justice*
202 *communities;*

203 *2. Require shareholders, and not ratepayers, to be responsible for civil penalties assessed against a*
204 *retail electric supplier pursuant to § 45.1-409 for failure to meet any goal or benchmark; and*

205 *3. Conduct, if any goal or benchmark established by this chapter is not met, an analysis as to why*
206 *the goal or benchmark was not met and develop a plan to make up from the missed goal or benchmark*
207 *in subsequent years.*

208 ***§ 45.1-409. Civil penalties.***

209 *Any retail electric supplier that fails to meet any goal or benchmark established under this chapter,*
210 *upon such finding by an appropriate circuit court, shall be assessed a civil penalty equal to twice the*
211 *cost of the financial investment necessary to meet such goal or mandate that was not achieved, or three*
212 *times the cost of the financial investment necessary to meet such goal or benchmark that was not*
213 *achieved if not met in an environmental justice community. All civil penalties under this section shall be*
214 *recovered in a civil action brought by the Attorney General in the name of the Commonwealth. All civil*
215 *penalties assessed under this section be paid into the general fund.*

216 ***§ 45.1-410. Short title.***

217 *This chapter may be cited as the Green New Deal Act.*