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SENATE BILL NO. 1434

Offered January 17, 2025

A BILL to amend and reenact §§ 15.2-2232, 15.2-2288.8, 45.2-1701, and 45.2-1710 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-2223.6 and 15.2-4209.1 and by adding in Chapter 19 of Title 45.2 an article number 4, consisting of sections numbered 45.2-1918, 45.2-1919, and 45.2-1920, relating to the siting of solar photovoltaic projects; decisions of localities; regional energy plans; Department of Energy; regional planning; Virginia Energy Plan; Interagency Solar Advisory Committee; established.

Patron—McPike

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2232, 15.2-2288.8, 45.2-1701, and 45.2-1710 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-2223.6 and 15.2-4209.1 and by adding in Chapter 19 of Title 45.2 an article number 4, consisting of sections numbered 45.2-1918, 45.2-1919, and 45.2-1920, as follows:

§ 15.2-2232. Comprehensive plan; energy production and energy efficiency.

During a locality's first comprehensive plan amendment after July 1, 2027, and no later than July 2, 2029, each locality shall incorporate into its comprehensive plan energy production and energy efficiency targets based on its regional strategic plan as amended by its planning district commission pursuant to § 15.2-4209.1. Each locality shall reevaluate its energy production and energy efficiency targets during subsequent comprehensive plan amendments to ensure it is consistent with subsequent regional strategic plan amendments by its planning district commission pursuant to § 15.2-4209.1.

§ 15.2-2232. Legal status of plan.

A. Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan or part thereof. In connection with any such determination, the commission may, and at the direction of the governing body shall, hold a public hearing, after notice as required by § 15.2-2204. Following the adoption of the Statewide Transportation Plan by the Commonwealth Transportation Board pursuant to § 33.2-353 and written notification to the affected local governments, each local government through which one or more of the designated corridors of statewide significance traverses, shall, at a minimum, note such corridor or corridors on the transportation plan map included in its comprehensive plan for information purposes at the next regular update of the transportation plan map. Prior to the next regular update of the transportation plan map, the local government shall acknowledge the existence of corridors of statewide significance within its boundaries.

B. The commission shall communicate its findings to the governing body, indicating its approval or disapproval with written reasons therefor. The governing body may overrule the action of the commission by a vote of a majority of its membership. Failure of the commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval. The owner or owners or their agents may appeal the decision of the commission to the governing body within 10 days after the decision of the commission. The appeal shall be by written petition to the governing body setting forth the reasons for the appeal. The appeal shall be heard and determined within 60 days from its filing. A majority vote of the governing body shall overrule the commission.

C. Widening, narrowing, extension, enlargement, vacation or change of use of streets or public areas shall likewise be submitted for approval, but paving, repair, reconstruction, improvement, drainage or similar work and normal service extensions of public utilities or public service corporations shall not require approval unless such work involves a change in location or extent of a street or public area.

D. Any public area, facility, park or use as set forth in subsection A which is identified within, but not the entire subject of, a submission under either § 15.2-2258 for subdivision or subdivision A 8 of § 15.2-2286 for

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SB1434

development or both may be deemed a feature already shown on the adopted master plan, and, therefore, excepted from the requirement for submittal to and approval by the commission or the governing body, provided that the governing body has by ordinance or resolution defined standards governing the construction, establishment or authorization of such public area, facility, park or use or has approved it through acceptance of a proffer made pursuant to § 15.2-2303.

E. Approval and funding of a public telecommunications facility on or before July 1, 2012, by the Virginia Public Broadcasting Board pursuant to Article 12 (§ 2.2-2426 et seq.) of Chapter 24 of Title 2.2 or after July 1, 2012, by the Board of Education pursuant to § 22.1-20.1 shall be deemed to satisfy the requirements of this section and local zoning ordinances with respect to such facility with the exception of television and radio towers and structures not necessary to house electronic apparatus. The exemption provided for in this subsection shall not apply to facilities existing or approved by the Virginia Public Telecommunications Board prior to July 1, 1990. The Board of Education shall notify the governing body of the locality in advance of any meeting where approval of any such facility shall be acted upon.

F. On any application for a telecommunications facility, the commission's decision shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission.

G. A proposed telecommunications tower or a facility constructed by an entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56 shall be deemed to be substantially in accord with the comprehensive plan and commission approval shall not be required if the proposed telecommunications tower or facility is located in a zoning district that allows such telecommunications towers or facilities by right.

H. A solar facility subject to subsection A shall be deemed to be substantially in accord with the comprehensive plan if (i) such proposed solar facility is located in a zoning district that allows such solar facilities by right; (ii) such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated by an eligible customer-generator or eligible agricultural customer-generator under § 56-594 or 56-594.01 or by a small agricultural generator under § 56-594.2; or (iii) the locality waives the requirement that solar facilities be reviewed for substantial accord with the comprehensive plan. All other solar facilities shall be reviewed for substantial accord with the comprehensive plan in accordance with this section. However, a locality may allow for a substantial accord review for such solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process. *Any locality determining whether a solar facility is substantially in accord with the comprehensive plan shall review and consider any advisory opinion issued by the Interagency Solar Advisory Committee pursuant to Article 4 (§ 45.2-1918 et seq.) of Chapter 19 of Title 45.2 for such facility prior to making such a determination.*

§ 15.2-2288.8. Special exceptions for solar photovoltaic projects.

A. Any locality may grant a special exception pursuant to § 15.2-2286, and include in its zoning ordinance reasonable regulations and provisions for a special exception as defined in § 15.2-2201, for any solar photovoltaic (electric energy) project or energy storage project. For the purposes of this section, "energy storage project" means energy storage equipment and technology within an energy storage project that is capable of absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been stored.

B. The governing body of such locality may grant a condition that includes (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project.

C. Once a condition is granted pursuant to subsection B, such condition shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

D. Prior to making a decision to grant or deny a special exception for a solar photovoltaic project pursuant to this section, the locality shall review and consider any advisory opinion issued by the Interagency Solar Advisory Committee pursuant to Article 4 (§ 45.2-1918 et seq.) of Chapter 19 of Title 45.2 for the project.

§ 15.2-4209.1. Regional energy plan.

By July 1, 2027 and after each subsequent reevaluation of regional energy planning targets, each

planning district commission shall amend its regional strategic plan to include a regional energy plan that meets the regional energy production and energy efficiency targets established for such planning district pursuant to subdivision D 5 of § 45.2-1701.

§ 45.2-1701. Division of Renewable Energy and Energy Efficiency; powers and duties.

A. The Division of Renewable Energy and Energy Efficiency is established in the Department. The Director has the immediate authority to coordinate the development and implementation of energy policy in the Commonwealth.

B. The Division shall coordinate the energy-related activities of the various state agencies and advise the Governor on energy issues that arise at the local, state, and national levels. All state agencies and institutions shall cooperate fully with the Division to assist in the proper execution of the duties assigned by this section.

C. In addition, the Division is authorized to make and enter into all contracts and agreements necessary or incidental to the performance of its duties or the execution of its powers, including the implementation of energy information and conservation plans and programs.

D. The Division shall:

1. Consult with state agencies and institutions concerning energy-related activities or policies as needed for the proper execution of the duties assigned to the Division by this section;

2. Serve as the Commonwealth's liaison with appropriate agencies of the federal government concerning the activities of the federal government related to energy production, consumption, and transportation and energy resource management in general and identify and monitor any federal grant programs, loan programs, or other opportunities for federal funding to further the Commonwealth's energy efficiency goals;

3. Provide services to encourage efforts by and among businesses in the Commonwealth, industries, utilities, academic institutions, state and local governments, and private institutions to develop energy resources and energy conservation programs;

4. In consultation with the State Corporation Commission, the Department of Environmental Quality, and the Virginia Center for Coal and Energy Research, prepare the Virginia Energy Plan pursuant to § 45.2-1710; ~~and~~

5. Establish regional planning targets for each planning district for energy production and energy efficiency that in total would meet the requirements of §§ 56-585.5 and 56-596.2. In establishing such targets, the Division shall consider land availability and cost, the region's proximity to energy infrastructure, anticipated future energy usage for the region, locations of historical or cultural significance, disproportionate impacts to historically economically disadvantaged communities as defined in § 56-576, and the impact on natural resources. The Division shall periodically reevaluate regional energy planning targets until the objectives of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1 are met; and

6. Observe the energy-related activities of state agencies and advise such agencies in order to encourage conformity with established energy policy.

§ 45.2-1710. Development of the Virginia Energy Plan.

A. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, the Clean Energy Advisory Board, the solar, wind, energy efficiency, and transportation electrification sectors, and a stakeholder group that includes representatives of consumer, environmental, manufacturing, forestry, and agricultural organizations and natural gas and electric utilities, shall prepare a comprehensive Virginia Energy Plan (the Plan) that identifies actions over a 10-year period consistent with the goal of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1 to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including the electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § 45.2-1706.1, that will implement the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1.

B. In addition, the Plan shall include:

1. Projections of energy consumption in the Commonwealth, including the use of fuel sources and costs of electricity, natural gas, gasoline, coal, renewable resources, and other forms of non-greenhouse-gas-generating energy resources, such as nuclear power, used in the Commonwealth;

2. An analysis of the adequacy of electricity generation, transmission, and distribution resources in the Commonwealth for the natural gas and electric industries, and how distributed energy resources and regional generation, transmission, and distribution resources affect the Commonwealth;

3. An analysis of siting requirements for electric generation resources and natural gas and electric transmission and distribution resources, including an assessment of state and local impediments to expanded use of distributed resources and recommendations to reduce or eliminate such impediments;

4. An analysis of fuel diversity for electricity generation, recognizing the importance of flexibility in meeting future capacity needs;

5. An analysis of the efficient use of energy resources and conservation initiatives;

6. An analysis of how such Virginia-specific issues relate to regional initiatives to ensure the adequacy of fuel production, generation, transmission, and distribution assets;

7. An analysis of the siting of energy resource development, refining, and transmission facilities to

182 identify any disproportionate adverse impact of such activities on economically disadvantaged or minority
183 communities;

184 8. With regard to any regulations proposed or adopted by the U.S. Environmental Protection Agency to
185 reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the federal
186 Clean Air Act, 42 U.S.C. § 7411(d), an analysis of (i) the costs to and benefits for energy producers and
187 electric utility customers, (ii) the effect on energy markets and reliability, and (iii) the commercial availability
188 of technology required to comply with such regulations;

189 9. An inventory of greenhouse gas emissions compiled using a method determined by the Department of
190 Environmental Quality for the four years prior to the issuance of the Plan;

191 10. Data regarding the number and type of electric and hybrid electric vehicles currently registered in the
192 Commonwealth; projections of future electric vehicle sales across all vehicle classes, taking into
193 consideration the impact of current and potential statewide policies; and analysis of the impact that the
194 growth of electrified transit on the Commonwealth's electric system;

195 11. An analysis of the Commonwealth's current electric vehicle charging infrastructure and all future
196 infrastructure needed to support the 2045 net-zero carbon target in the transportation sector, including
197 chargers, make-ready electrical equipment, and supporting hardware and software needed to support the
198 electrification of all vehicle categories used on and off roads and highways, including light-duty,
199 medium-duty, and heavy-duty vehicles and electric bicycles, as well as that needed to electrify ground
200 transportation at all ports and airports, with particular attention to the needs of historically economically
201 disadvantaged communities as defined in § 56-576 and any state or local impediments to deployment; ~~and~~

202 12. *Regional planning targets developed by the Division pursuant to § 45.2-1701 by planning district for*
203 *energy production and energy efficiency that in total would meet the requirements of §§ 56-585.5 and*
204 *56-596.2; and*

205 13. Recommendations, based on the analyses completed under subdivisions 1 through ~~11~~ 12, for
206 legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth
207 Clean Energy Policy.

208 C. In preparing the Plan, the Division and other agencies involved in the planning process shall utilize
209 state geographic information systems, to the extent deemed practicable, to assess how recommendations in
210 the Plan may affect pristine natural areas and other significant onshore natural resources. Effective October 1,
211 2024, interim updates on the Plan shall also contain projections for greenhouse gas emissions that would
212 result from implementation of the Plan's recommendations.

213 D. In preparing the Plan, the Division and other agencies involved in the planning process shall develop a
214 system for assigning numerical scores to any parcel of real property based on the extent to which such parcel
215 is suitable for the siting of a wind energy facility or solar energy facility. For a wind energy facility, the
216 scoring system shall address the wind velocity, sustained velocity, and turbulence. For either a wind energy
217 facility or a solar energy facility, the scoring system shall address the parcel's proximity to electric power
218 transmission lines or systems, potential impacts of such a facility to natural and historic resources and to
219 economically disadvantaged or minority communities, and compatibility with the local land use plan. The
220 system developed pursuant to this section shall allow the suitability of the parcel for the siting of a wind
221 energy or solar energy facility to be compared to the suitability of other parcels so scored, and shall be based
222 on a scale that allows the suitability of the parcel for the siting of such a facility to be measured against the
223 hypothetical score of an ideal location for such a facility.

224 E. Upon receipt by the Division of a recommendation from the Department of General Services, a local
225 governing body, or the parcel's owner stating that a parcel of real property is a potentially suitable location for
226 a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the
227 location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel
228 using the scoring system developed pursuant to subsection D.

229 *Article 4.*

230 *Interagency Solar Advisory Committee.*

231 **§ 45.2-1918. Definitions.**

232 *As used in this article, unless the context requires a different meaning:*

233 *"Advisory Committee" means the Interagency Solar Advisory Committee established pursuant to this*
234 *article.*

235 *"Solar energy facility" means a commercial solar photovoltaic generation facility.*

236 *"Solar photovoltaic project" means a solar energy facility located within the Commonwealth and includes*
237 *interests in land, improvements, and ancillary facilities.*

238 **§ 45.2-1919. Interagency Solar Advisory Committee.**

239 A. *The Director shall convene an Interagency Solar Advisory Committee for the purposes of reviewing*
240 *solar photovoltaic project proposals and issuing advisory opinions on such proposals. The Advisory*
241 *Committee may consult with state agencies, localities, planning district commissions, research institutions,*
242 *businesses, nonprofit organizations, and stakeholders as the Advisory Committee deems appropriate. The*

Advisory Committee shall have only those powers enumerated in this article.

B. The Advisory Committee shall consist of the following five *ex officio* members:

1. The Director or his designee. Any such designee shall be employed within the Department's Division of Renewable Energy and Energy Efficiency;

2. The Director of the Department of Environmental Quality or his designee. Any such designee shall be employed within the Department of Environmental Quality's Air Division or Land and Waste Division;

3. The Commissioner of Agriculture and Consumer Services or his designee;

4. The Director of the Department of Conservation and Recreation or his designee; and

5. The Chief Executive Officer of the Virginia Economic Development Partnership Authority or his designee.

C. The Director or his designee shall serve as the chairman of the Advisory Committee. The Department shall provide staff support to the Advisory Committee.

§ 45.2-1920. Solar photovoltaic project review.

A. Any person planning to construct a solar photovoltaic project may request an advisory opinion on its proposal from the Advisory Committee. The Advisory Committee shall review each proposal and shall issue an advisory opinion within 120 days and shall provide such opinion to the relevant locality.

B. In reviewing a proposal, the Advisory Committee shall consider (i) regional planning targets for the relevant planning district established pursuant to § 45.2-1701; (ii) the goals of the Commonwealth Clean Energy Policy set forth in § 45.2-1706.1; (iii) the requirements of § 56-585.5; (iv) cost effectiveness; (v) the project's proximity to existing energy infrastructure; (vi) any impacts to natural, historical, or cultural resources; (vii) any impacts to historically economically disadvantaged communities as defined in § 56-576; and (viii) any other factor the Advisory Committee deems relevant.