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SENATE BILL NO. 852

Offered January 13, 2027

Prefiled November 9, 2026

A BILL to amend and reenact §§ 10.1-603.25, 10.1-1183.1, 10.1-1307, 45.2-1701.1, and 56-596.2:2 of the Code of Virginia and to repeal Article 4 (§§ 10.1-1329, 10.1-1330, and 10.1-1331) of Chapter 13 of Title 10.1 of the Code of Virginia, relating to Virginia Clean Energy and Community Flood Preparedness Act; repeal; electric utility customer credit.

Patron—DeSteph

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.25, 10.1-1183.1, 10.1-1307, 45.2-1701.1, and 56-596.2:2 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.

A. The Virginia Community Flood Preparedness Fund is hereby established as a permanent and perpetual fund. All ~~sums that are designated for deposit in the Fund from revenue generated by the sale of emissions allowances pursuant to subdivision C 1 of § 10.1-1330, all~~ sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments, federally recognized tribes, and Virginia recognized tribes, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this article shall be deemed to promote the public purposes of enhancing flood prevention or protection and coastal resilience.

B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum of agreement with the Department. For funds disbursed under subsection E, interest on loans shall not accrue and repayment obligations shall not come into effect for loans or grants until completion or cancellation of the project or study for which such funds are disbursed. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund. The Department shall direct distribution of loans and grants from the Fund in accordance with the provisions of subsection D.

C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be designated for deposit to, and become part of, the Fund.

D. 1. The Fund shall be administered by the Department as prescribed in this article. The Department, in consultation with the Secretary of Natural and Historic Resources and the Chief Resilience Officer of the Commonwealth, shall establish guidelines regarding the distribution and prioritization of loans and grants, including loans and grants that support flood prevention or protection studies of statewide or regional significance. The Department shall develop and provide an opportunity for a 30-day public comment period prior to each new grant or loan offering to solicit feedback on proposed revisions to the Virginia Community Flood Preparedness Manual. A record of each application for a grant or loan and the action taken thereon shall be available for public inspection at the office of the Department and on a publicly accessible website.

2. The Director shall convene an Advisory Review Committee (the Committee) to assist in the distribution of loans and grants from the Fund. The Committee shall review applications to the Fund and make recommendations on the disbursement of moneys from the Fund and any other appropriate issues to the Department, the Secretary of Natural and Historic Resources, and the Chief Resilience Officer of the Commonwealth. The Committee shall include representatives from the Department of Emergency Management, the Department of Environmental Quality, the Department of Housing and Community

Development, a nonprofit group engaged in resilience efforts, the agriculture industry, the manufacturing industry, and the business community, the Virginia Director of the Chesapeake Bay Commission, and others as the Director deems appropriate. Appointed members of the Committee shall serve without compensation.

E. Localities, federally recognized tribes, and Virginia recognized tribes shall use moneys from the Fund primarily for the purpose of implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund may be used to mitigate future flood damage and to assist inland and coastal communities across the Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall be given to projects that implement community-scale hazard mitigation activities that use nature-based solutions to reduce flood risk.

F. Any locality, federally recognized tribe, or Virginia recognized tribe is authorized to secure a loan made pursuant to this section by placing a lien up to the value of the loan against any property that benefits from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property is located.

G. Any locality, federally recognized tribe, or Virginia recognized tribe using moneys in the Fund to provide a loan for a project in a low-income geographic area is authorized to forgive the principal of such loan. If a locality, federally recognized tribe, or Virginia recognized tribe forgives the principal of any such loan, any obligation of the locality, federally recognized tribe, or Virginia recognized tribe to repay that principal to the Commonwealth shall not be forgiven and such obligation shall remain in full force and effect. The total amount of loans forgiven by all localities, federally recognized tribes, and Virginia recognized tribes in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year to the Fund by the General Assembly.

§ 10.1-1183.1. Department of Environmental Quality consolidated annual report.

A. As used in this section, "consolidated report" means the report submitted by the Department pursuant to this section in satisfaction of any requirements of §§ 10.1-1186.1, 10.1-1307, 10.1-1307.04, 10.1-1322, 10.1-1322.5, ~~10.1-1330,~~ 10.1-1402.1, 10.1-1413.1, 10.1-1425.17, 62.1-44.15:6, 62.1-44.17:3, 62.1-44.34:21, 62.1-44.40, 62.1-69.35:2, 62.1-69.44, 62.1-223.3, and 62.1-256.2.

B. Notwithstanding any other provision of §§ 10.1-1186.1, 10.1-1307, 10.1-1307.04, 10.1-1322, 10.1-1322.5, ~~10.1-1330,~~ 10.1-1402.1, 10.1-1413.1, 10.1-1425.17, 62.1-44.15:6, 62.1-44.17:3, 62.1-44.34:21, 62.1-44.40, 62.1-69.35:2, 62.1-69.44, 62.1-223.3, and 62.1-256.2, the Department shall be deemed to have satisfied the reporting requirements of those sections by submitting the consolidated report to the Governor and the General Assembly no later than October 1 of each year.

C. Each year, the consolidated report shall include the reports required pursuant to §§ 10.1-1186.1, 10.1-1307, 10.1-1322.5, ~~10.1-1330,~~ 10.1-1413.1, 10.1-1425.17, 62.1-44.40, 62.1-69.35:2, 62.1-69.44, and 62.1-256.2.

D. In even-numbered years, the consolidated report shall also include the reports required pursuant to §§ 10.1-1322, 10.1-1402.1, and 62.1-44.15:6.

E. In odd-numbered years, the consolidated report shall also include the reports required pursuant to §§ 62.1-44.17:3 and 62.1-44.34:21.

F. Beginning in 2026 and every four years thereafter, the consolidated report shall also include the report required pursuant to § 10.1-1307.04.

G. Beginning in 2027 and every four years thereafter, the consolidated report shall also include the report required pursuant to § 62.1-223.3.

§ 10.1-1307. Further powers and duties of Board and Department.

A. The Board shall have the power to control and regulate its internal affairs. The Department shall have the power to initiate and supervise research programs to determine the causes, effects, and hazards of air pollution; initiate and supervise statewide programs of air pollution control education; cooperate with and receive money from the federal government or any county or municipal government, and receive money from any other source, whether public or private; develop a comprehensive program for the study, abatement, and control of all sources of air pollution in the Commonwealth; and advise, consult, and cooperate with agencies of the United States and all agencies of the Commonwealth, political subdivisions, private industries, and any other affected groups in furtherance of the purposes of this chapter.

B. The Board may adopt by regulation emissions standards controlling the release into the atmosphere of air pollutants from motor vehicles, only as provided in § 10.1-1307.05 and Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2.

C. After any regulation has been adopted by the Board pursuant to § 10.1-1308, the Department may grant local variances therefrom, if it finds after an investigation and hearing that local conditions warrant; except that no local variances shall be granted from regulations adopted by the Board pursuant to § 10.1-1308 related to the requirements of subsection E of § 10.1-1308 ~~or Article 4 (§ 10.1-1329 et seq.)~~. If local

variances are permitted, the Department shall issue an order to this effect. Such order shall be subject to revocation or amendment at any time if the Department, after a hearing, determines that the amendment or revocation is warranted. Variances and amendments to variances shall be adopted only after a public hearing has been conducted pursuant to the public advertisement of the subject, date, time, and place of the hearing at least 30 days prior to the scheduled hearing. The hearing shall be conducted to give the public an opportunity to comment on the variance.

D. After the Board has adopted the regulations provided for in § 10.1-1308, the Department shall have the power to (i) initiate and receive complaints as to air pollution; (ii) hold or cause to be held hearings and enter orders diminishing or abating the causes of air pollution and orders to enforce the Board's regulations pursuant to § 10.1-1309; and (iii) institute legal proceedings, including suits for injunctions for the enforcement of orders, regulations, and the abatement and control of air pollution and for the enforcement of penalties.

E. The Board in making regulations; the Department in approving variances, control programs, or permits; and the courts in granting injunctive relief under the provisions of this chapter, shall consider facts and circumstances relevant to the reasonableness of the activity involved and the regulations proposed to control it, including:

1. The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which is caused or threatened to be caused;

2. The social and economic value of the activity involved;

3. The suitability of the activity to the area in which it is located, except that consideration of this factor shall be satisfied if the local governing body of a locality in which a facility or activity is proposed has resolved that the location and operation of the proposed facility or activity is suitable to the area in which it is located; and

4. The scientific and economic practicality of reducing or eliminating the discharge resulting from such activity.

F. The Department shall conduct the hearings provided for in this chapter.

G. The Board shall not:

1. Adopt any regulation limiting emissions from wood heaters; or

2. Enforce against a manufacturer, distributor, or consumer any federal regulation limiting emissions from wood heaters adopted after May 1, 2014.

H. The Department shall submit an annual report to the Governor and General Assembly on or before October 1 of each year on matters relating to the Commonwealth's air pollution control policies and on the status of the Commonwealth's air quality.

I. In granting a permit pursuant to this section, the Department shall provide in writing a clear and concise statement of the legal basis, scientific rationale, and justification for the decision reached. When the decision of the Department is to deny a permit, pursuant to this section, the Department shall, in consultation with legal counsel, provide a clear and concise statement explaining the reason for the denial, the scientific justification for the same, and how the Department's decision is in compliance with applicable laws and regulations. Copies of the decision, certified by the Director, shall be mailed by certified mail to the permittee or applicant.

§ 45.2-1701.1. Public disclosure of certain electric generating facility closures.

A. The provisions of this section shall apply to any electric generating facility that:

1. Has a nameplate generating capacity of 80 megawatts or more;

2. Is located in the Commonwealth;

3. Emits carbon dioxide as a byproduct of combusting fuel, whether or not certificated by the State Corporation Commission pursuant to subsection D of § 56-580; and

4. Is subject to, and not exempt from, regulations adopted pursuant to subsection E of § 10.1-1308 ~~or § 10.1-1330~~.

B. Within 30 days of an owner of an electric generating facility making public the decision to close such facility, or within 30 days of the owner of an electric generating facility making a filing with the U.S. Securities and Exchange Commission regarding a material impact to the cost, operations, or financial condition of the owner, which material impact is a direct precursor to the closure of the electric generating facility, the owner shall send a written notice of the impending closure to:

1. The governing body of the locality where the facility is located;

2. The governing body of any locality adjoining the locality where the facility is located;

3. Any town council located within a county described in subdivision 1;

4. Any planning district commission of any locality described in subdivision 1 or 2;

5. The State Corporation Commission Division of Public Utility Regulation;

6. The Department and the Division;

7. The Department of Housing and Community Development;

8. PJM Interconnection, LLC;

9. The Virginia Employment Commission;

10. The Department of Environmental Quality; and

11. The Virginia Council on Environmental Justice.

C. The notice required by subsection B shall include, at a minimum, (i) the anticipated closure date of the facility; (ii) references to any website maintained by the owner containing closure information; (iii) a list of permits obtained from a local government, the State Air Pollution Control Board, the State Water Control Board, or the Department of Environmental Quality, including the permit number and date of issuance; (iv) anticipated future use of the facility site, if known; (v) workforce transition assistance information; and (vi) decommissioning information. If the owner of the facility is a registrant with the U.S. Securities and Exchange Commission, any filings mentioning the impending closure shall also be included with the notice.

D. In the six months following receipt of the notice required by subsection B, the governing body of the locality where the facility is located shall conduct at least three public hearings, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the governing body and the public.

E. In the six months following receipt of the notice required by subsection B, the planning district commission of the locality where the facility is located shall conduct at least one public hearing, which may be part of a regular meeting agenda, where at least one representative of the owner of the facility being closed shall be present, make a presentation regarding the impending closure, and take questions from the planning district commission and the public.

F. The Division shall maintain a public website listing the facilities subject to this section and their anticipated closure dates, if such dates are reasonably known by virtue of the laws of the Commonwealth or a public record or filing with an agency of the Commonwealth, including the State Corporation Commission, and a link shall be provided to the facilities' environmental protection or remediation obligations included in permits obtained from the Department, State Air Pollution Control Board, State Water Control Board, Department of Environmental Quality, or local governing body. At least every 12 months, the State Corporation Commission shall transmit to the Division any information that it reasonably believes would necessitate updates to the anticipated closure dates or other information contained on the Division's website.

G. As providing advance notice to affected communities of an impending closure of a facility under this section is a matter of vital importance for public policy, this section shall be liberally construed. The obligations imposed on agencies of the Commonwealth under this section are to be construed in favor of public disclosure of the information required by subsection F.

H. Notwithstanding the provisions of subsection A, the provisions of this section shall not apply to any electric generating facility that has a nameplate generating capacity of 90 megawatts or less and that filed a deactivation notice with PJM Interconnection, LLC, prior to September 1, 2019.

§ 56-596.2:2. (Expires January 1, 2031) Energy efficiency savings targets for certain customers.

A. The Commission shall establish for Phase II Utilities annual energy efficiency savings targets for customers who are low-income, elderly, disabled, or veterans of military service to be achieved through utility energy efficiency programs (low-income energy efficiency savings programs) designed to benefit such customers, provided that each year's target shall be measured by the total combined kilowatt-hour savings achieved by electric utility energy efficiency and demand response programs and measures installed for such customers in that program year, as well as savings still being achieved by measures and programs implemented for such customers in prior years, and that such annual targets shall be at least one percent of the average annual energy retail sales by that utility to those customers, to the extent that the potential exists and is reasonably achievable as determined by the Commission. In establishing such targets, the Commission shall seek to optimize energy efficiency and the health and safety benefits of utility energy efficiency programs.

B. In advance of the effective date of such annual energy efficiency targets, the first of which shall be for 2025, the Commission shall, after notice and opportunity for hearing, initiate proceedings to establish such targets and the appropriate retail sales against which the energy efficiency targets will be measured. In setting such targets, the Commission shall consider ~~the impact and savings of energy efficiency programs authorized by subdivision C 2 of § 10.1-1330. The Commission shall also consider~~ federal loan guarantees, grant funds, and rebates made available pursuant to the federal Inflation Reduction Act (P.L. 117-169) or other similar federal legislation that facilitates energy efficiency projects.

C. For the time period 2028 through 2030, the Commission shall review and, at its discretion, revise such minimum annual targets to ensure continued consistency with the provisions of this section. All savings from low-income energy efficiency programs shall be applied to the energy efficiency savings set forth in subsection B of § 56-596.2.

D. ~~In providing such low-income energy efficiency programs, Phase II Utilities shall make best efforts to coordinate such energy efficiency programs with any health and safety upgrades provided through energy efficiency programs authorized by subdivision C 2 of § 10.1-1330, when reasonably feasible to do so and at the utility's sole discretion.~~

~~E.~~ For the purposes of this section, "Phase II Utility" has the same meaning as provided in subdivision A 1

of § 56-585.1.

2. That Article 4 (§§ 10.1-1329, 10.1-1330, and 10.1-1331) of Chapter 13 of Title 10.1 of the Code of Virginia is repealed.

3. That the Director of the Department of Environmental Quality shall take all steps necessary to suspend the Commonwealth's participation in the auction program to sell allowances into a market-based trading program consistent with the Regional Greenhouse Gas Initiative.

4. That notwithstanding subsection F of Item 367 of Chapter 1 of the Acts of Assembly of 2026, Special Session I, or any other provision of law, the Commonwealth shall remit all revenue collected pursuant to a market-based trading program consistent with the Regional Greenhouse Gas Initiative to each electric utility, as defined § 56-576 of the Code of Virginia, that has a rate adjustment clause petition approved or pending approval by the State Corporation Commission (the Commission) pursuant to subdivision A 5 e of § 56-585.1 of the Code of Virginia for recovery of the costs of emissions allowances or that has otherwise increased customer bills to recover such costs. Each such utility shall subsequently distribute such funds received from the Commonwealth as a credit to its customers in the Commonwealth, reflected as a line item on each customer bill labeled "RGGI Credit," in a manner approved by the Commission.