

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend the Code of Virginia by adding sections numbered 45.1-392.1 and 45.1-392.2, and to
2 repeal § 45.1-392 of the Code of Virginia, relating to the Clean Energy Manufacturing Incentive
3 Grant Program.

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

5 **1. That the Code of Virginia is amended by adding sections numbered 45.1-392.1 and 45.1-392.2 as**
6 **follows:**

7 § 45.1-392.1. Clean Energy Manufacturing Incentive Grant Fund.

8 There is hereby created in the state treasury a special nonreverting fund to be known as the Clean
9 Energy Manufacturing Incentive Grant Fund, hereafter referred to as "the Fund." The Fund shall be
10 established on the books of the Comptroller. The Fund shall consist of such moneys as may be
11 appropriated to it by the General Assembly. Moneys in the Fund shall be used solely for the purposes of
12 providing grants to certain clean energy manufacturers as specified in § 45.1-392.2. Expenditures and
13 disbursements from the Fund shall be made by the State Treasurer on warrants issued by the
14 Comptroller upon written request signed by the Director of the Department of Mines, Minerals and
15 Energy.

16 § 45.1-392.2. Clean Energy Manufacturing Incentive Grant Program.

17 A. For the purposes of this section:

18 "Authority" means the Virginia Economic Development Partnership Authority established in §
19 2.2-2234.

20 "Clean energy manufacturer" means a manufacturer whose primary function is to manufacture or
21 assemble equipment, systems, or products used to produce renewable or nuclear energy, or for energy
22 conservation or efficiency purposes, so long as such manufacturer is not a public service corporation as
23 defined in § 56-1 that recovers its costs pursuant to § 56-585.1.

24 "Clean energy products" means the equipment, services, goods, systems, and related functions
25 produced by a clean energy manufacturer.

26 "Eligible entity" means any clean energy manufacturer meeting the requirements of subsection

27 B.

28 "Fund" means the Clean Energy Manufacturing Incentive Grant Fund established pursuant to §

29 45.1-392.1.

30 "Memorandum of understanding" means an agreement among an eligible entity, the Director,

31 and the Authority setting forth the requirements for capital investment; the creation of new full-time

32 jobs; and the amount and duration of the grant payments.

33 "Renewable energy" means energy derived from sunlight, wind, falling water, sustainable

34 biomass, wave motion, tides, and municipal solid waste. Renewable energy does not mean energy

35 derived from coal, oil, natural gas, or nuclear power.

36 B. Any clean energy manufacturer shall be eligible to receive a clean energy manufacturing grant

37 for up to six years if it: (i) commences or expands operations in the Commonwealth on or after January

38 1, 2010; (ii) makes a capital investment in the Commonwealth on or after January 1, 2010, in an amount

39 greater than \$50 million in real and tangible personal property related to the manufacture or assembly of

40 clean energy products; (iii) creates at least 200 full-time jobs in the Commonwealth related to the

41 manufacture or assembly of clean energy products; and (iv) enters into a memorandum of understanding

42 with the Director and the Authority setting forth the requirements for capital investment and the

43 creations of new full-time jobs. Notwithstanding clauses (ii) and (iii), the Governor may reduce the

44 capital investment and job creation thresholds if the eligible entity of such development is located in a

45 locality with an unemployment rate that is at least 1.25 times the state average.

46 C. The grants shall be paid from the Fund subject to appropriation, and the aggregate amount of

47 grants awarded and outstanding at any time shall not exceed \$36 million. The Director, with the

48 assistance of the Authority, shall conduct a return on investment analysis to determine the amount and

49 duration of grant payments before entering into a memorandum of understanding.

50 D. Any eligible entity shall provide an annual report to the Director, in a form approved by and

51 satisfactory to him, detailing clean energy product operations in the Commonwealth. The report shall be

52 submitted no later than March 31 for the previous calendar year and, at the discretion of the Director or

53 as stated in the memorandum of understanding, failure to meet the filing deadline shall render the
54 applicant ineligible to receive a grant for that year. The U.S. Postal Service postmark cancellation shall
55 govern the date of filing determination unless the Director has approved an alternative means of filing.

56 E. The Director may inspect the records, books, and other applicable documents and evidence to
57 verify whether the clean energy manufacturer meets the requirements for eligibility set forth in this
58 section and the memorandum of understanding.

59 F. The Director shall allocate moneys from the Fund in the following order of priority: (i) unpaid
60 grant amounts carried forward from prior years because eligible entities did not receive the full amount
61 of any grant to which they were eligible in a prior year and (ii) other eligible entities. If the moneys
62 available for grant payments in the Fund are less than the amount of grants to which eligible entities are
63 eligible, the moneys shall be apportioned pro rata among eligible entities, based upon the amount of the
64 grant to which an eligible entity is eligible and the amount of money in the Fund available for allocation
65 to such eligible entities.

66 G. If an entity is allocated less than the full amount of a grant to which it is eligible in any year, it
67 shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which it was
68 eligible shall be carried forward by the Director to the following year, during which it shall be in the first
69 class of priority as provided in clause (i) of subsection F.

70 H. Actions of the Department or the Authority relating to the allocation and awarding of grants
71 under this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et
72 seq.) pursuant to subdivision B 4 of § 2.2-4002.

73 **2. That § 45.1-392 of the Code of Virginia is repealed.**

74 **3. That the Department of Mines, Minerals and Energy and the Virginia Economic Development**
75 **Partnership Authority shall assist the Secretary of Commerce and Trade to develop guidelines to**
76 **implement the provisions of this act and present such guidelines to the Chairmen of the**
77 **Senate Finance and House Appropriations Committees. The guidelines shall be exempt from the**
78 **Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).**

79 #