

**SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_**

1 A BILL to amend and reenact §56-585.2 of the Code of Virginia and to amend the Code of Virginia by  
2 adding a section numbered 56-585.2:1, relating to the renewable energy portfolio standard  
3 program.

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

5 **1. That § 56-585.2 of the Code of Virginia is amended and reenacted and that the Code of**  
6 **Virginia is amended by adding a section numbered § 56-585.2:1 as follows:**

7 § 56-585.2. Sale of electricity from renewable sources through a renewable energy portfolio  
8 standard program.

9 A. As used in this section:

10 "Renewable energy" shall have the same meaning ascribed to it in § 56-576, provided such  
11 renewable energy is (i) generated or purchased in the Commonwealth or in the interconnection region of  
12 the regional transmission entity of which the participating utility is a member, as it may change from  
13 time to time; (ii) generated by a public utility providing electric service in the Commonwealth from a  
14 facility in which the public utility owns at least a 49 percent interest and that is located in a control area  
15 adjacent to such interconnection region; or (iii) represented by certificates issued by an affiliate of such  
16 regional transmission entity, or any successor to such affiliate, and held or acquired by such utility,  
17 which validate the generation of renewable energy by eligible sources in such region. "Renewable  
18 energy" shall not include electricity generated from pumped storage, but shall include run-of-river  
19 generation from a combined pumped-storage and run-of-river facility.

20 "Total electric energy sold in the base year" means total electric energy sold to Virginia  
21 jurisdictional retail customers by a participating utility in calendar year 2007, excluding an amount  
22 equivalent to the average of the annual percentages of the electric energy that was supplied to such  
23 customers from nuclear generating plants for the calendar years 2004 through 2006.

24 B. ~~Any-Each~~ investor-owned incumbent electric utility ~~may apply to the Commission for~~  
25 ~~approval to shall~~ participate in a renewable energy portfolio standard program, as defined in this section.

~~The Commission shall approve such application if the applicant demonstrates that it has a reasonable expectation of achieving 12 percent of its base year electric energy sales from renewable energy sources during calendar year 2022, and 15 percent of its base year electric energy sales from renewable energy sources during calendar year 2025, as provided in subsection D.~~

C. It is in the public interest for utilities to achieve the goals set forth in subsection D, such goals being referred to herein as "RPS Goals". Accordingly, the Commission, in addition to providing recovery of incremental RPS program costs pursuant to subsection E, shall increase the fair combined rate of return on common equity for each utility participating in such program by a single Performance Incentive, as defined in subdivision A 2 of § 56-585.1, of 50 basis points whenever the utility attains an RPS Goal established in subsection D. Such Performance Incentive shall first be used in the calculation of a fair combined rate of return for the purposes of the immediately succeeding biennial review conducted pursuant to § 56-585.1 after any such RPS Goal is attained, and shall remain in effect if the utility continues to meet the RPS Goals established in this section through and including the third succeeding biennial review conducted thereafter. Any such Performance Incentive, if implemented, shall be in lieu of any other Performance Incentive reducing or increasing such utility's fair combined rate of return on common equity for the same time periods. However, if the utility receives any other Performance Incentive increasing its fair combined rate of return on common equity by more than 50 basis points, the utility shall be entitled to such other Performance Incentive in lieu of this Performance Incentive during the term of such other Performance Incentive. A utility shall receive double credit toward meeting the renewable energy portfolio standard for energy derived from sunlight or from wind.

D. To qualify for the Performance Incentive established in subsection C, the total electric energy sold by a utility to meet the RPS Goals shall be composed of the following amounts of electric energy from renewable energy sources, as adjusted for any sales volumes lost through operation of the customer choice provisions of subdivision A 3 or A 4 of § 56-577:

RPS Goal I: In calendar year 2010, 4 percent of total electric energy sold in the base year.

51 RPS Goal II: For calendar years 2011 through 2015, inclusive, an average of 4 percent of total  
52 electric energy sold in the base year, and in calendar year 2016, 7 percent of total electric energy sold in  
53 the base year.

54 RPS Goal III: For calendar years 2017 through 2021, inclusive, an average of 7 percent of total  
55 electric energy sold in the base year, and in calendar year 2022, 12 percent of total electric energy sold  
56 in the base year.

57 RPS Goal IV: For calendar years 2023 and 2024, inclusive, an average of 12 percent of total  
58 electric energy sold in the base year, and in calendar year 2025, 15 percent of total electric energy sold  
59 in the base year.

60 A utility may apply renewable energy sales achieved or renewable energy certificates acquired  
61 during the periods covered by any such RPS Goal that are in excess of the sales requirement for that  
62 RPS Goal to the sales requirements for any future RPS Goal.

63 E. A utility participating in such program shall have the right to recover all incremental costs  
64 incurred for the purpose of such participation in such program, as accrued against income, through rate  
65 adjustment clauses as provided in subdivisions A 5 and A 6 of § 56-585.1, including, but not limited to,  
66 administrative costs, ancillary costs, capacity costs, costs of energy represented by certificates described  
67 in subsection A, and, in the case of construction of renewable energy generation facilities, allowance for  
68 funds used during construction until such time as an enhanced rate of return, as determined pursuant to  
69 subdivision A 6 of § 56-585.1, on construction work in progress is included in rates, projected  
70 construction work in progress, planning, development and construction costs, life-cycle costs, and costs  
71 of infrastructure associated therewith, plus an enhanced rate of return, as determined pursuant to  
72 subdivision A 6 of § 56-585.1. All incremental costs of the RPS program shall be allocated to and  
73 recovered from the utility's customer classes based on the demand created by the class and within the  
74 class based on energy used by the individual customer in the class, except that the incremental costs of  
75 the RPS program shall not be allocated to or recovered from customers that are served within the large  
76 industrial rate classes of the participating utilities and that are served at primary or transmission voltage.

77 F. A utility participating in such program shall apply towards meeting its RPS Goals any  
78 renewable energy from existing renewable energy sources owned by the participating utility or  
79 purchased as allowed by contract at no additional cost to customers to the extent feasible. A utility  
80 participating in such program shall not apply towards meeting its RPS Goals renewable energy  
81 certificates attributable to any renewable energy generated at a renewable energy generation source in  
82 operation as of July 1, 2007, that is operated by a person that is served within a utility's large industrial  
83 rate class and that is served at primary or transmission voltage. A participating utility shall be required to  
84 fulfill any remaining deficit needed to fulfill its RPS Goals from new renewable energy supplies at  
85 reasonable cost and in a prudent manner to be determined by the Commission ~~at the time of approval of~~  
86 ~~any application made pursuant to subsection B.~~ Utilities participating in such program shall collectively,  
87 either through the installation of new generating facilities, through retrofit of existing facilities or  
88 through purchases of electricity from new facilities located in Virginia, use or cause to be used no more  
89 than a total of 1.5 million tons per year of green wood chips, bark, sawdust, a tree or any portion of a  
90 tree which is used or can be used for lumber and pulp manufacturing by facilities located in Virginia,  
91 towards meeting RPS goals, excluding such fuel used at electric generating facilities using wood as fuel  
92 prior to January 1, 2007. ~~A-Each~~ utility ~~with an approved application~~ shall be allocated a portion of the  
93 1.5 million tons per year in proportion to its share of the total electric energy sold in the base year, as  
94 defined in subsection A, for all utilities participating in the RPS program. A utility may use in meeting  
95 RPS goals, without limitation, the following sustainable biomass and biomass based waste to energy  
96 resources: mill residue, except wood chips, sawdust and bark; pre-commercial soft wood thinning; slash;  
97 logging and construction debris; brush; yard waste; shipping crates; dunnage; non-merchantable waste  
98 paper; landscape or right-of-way tree trimmings; agricultural and vineyard materials; grain; legumes;  
99 sugar; and gas produced from the anaerobic decomposition of animal waste.

100 G. The Commission shall promulgate such rules and regulations as may be necessary to  
101 implement the provisions of this section including a requirement that participants verify whether the  
102 RPS goals are met in accordance with this section.

103 H. Each investor-owned incumbent electric utility shall report to the Commission annually by  
104 November 1 on (i) its efforts, ~~if any,~~ to meet the RPS Goals, (ii) its overall generation of renewable  
105 energy, and (iii) advances in renewable generation technology that affect activities described in clauses  
106 (i) and (ii).

107 I. If, after notice and comment, the Commission determines that a participating utility has failed  
108 to meet the RPS Goals, the Commission shall require the utility to pay a noncompliance payment into  
109 the Virginia Sustainable Energy Fund, established pursuant to § 56-585.2:1. This payment (i) shall not  
110 constitute a recoverable cost, (ii) shall be an amount that will encourage future compliance with RPS  
111 Goals, and (iii) shall not be an amount less than the end of year market price for the equivalent  
112 renewable energy certificates needed to achieve RPS Goal compliance for the calendar year.

113 § 56-585.2:1. Virginia Sustainable Energy Fund established.

114 There is hereby created in the state treasury a special nonreverting fund to be known as the  
115 Virginia Sustainable Energy Fund, hereafter referred to as “the Fund.” The Fund shall be established on  
116 the books of the Comptroller. All noncompliance payments collected by the Commission pursuant to  
117 subsection I of § 56-585.2 shall be paid into the state treasury and credited to the Fund. Interest earned  
118 on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the  
119 Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but  
120 shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of increasing the  
121 amount of electric energy generated from renewable energy resources and for energy efficiency  
122 programs. The moneys may be distributed to existing programs in the Commonwealth administered by  
123 agencies, political subdivisions, and universities. Expenditures and disbursements from the Fund shall  
124 be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by  
125 the Commission or their designee.

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