

# CODE OF VIRGINIA



## Title 67 Virginia Energy Plan

# Title 67 - Virginia Energy Plan

## Chapter 1 - Energy Policy of the Commonwealth

### § 67-100. (Repealed effective October 1, 2021) Legislative findings.

The General Assembly hereby finds that:

1. Energy is essential to the health, safety, and welfare of the people of this Commonwealth and to the Commonwealth's economy;
2. The state government should facilitate the availability and delivery of reliable and adequate supplies of energy to industrial, commercial, and residential users at reasonable costs such that these users and the Commonwealth's economy are able to be productive;
3. The Commonwealth would benefit from articulating clear objectives pertaining to energy issues, adopting an energy policy that advances these objectives, and establishing a procedure for measuring the implementation of these policies;
4. Climate change is an urgent and pressing challenge for Virginia. Swift decarbonization and a transition to clean energy are required to meet the urgency of the challenge; and
5. The Commonwealth will benefit from being a leader in deploying a low-carbon energy economy.

2006, c. [939](#); 2020, cc. [1191](#), [1192](#).

### § 67-101. Repealed.

Repealed by Acts 2021, Sp. Sess. I, c. [327](#), cl. 2, effective July 1, 2021.

### § 67-101.1. (Repealed effective October 1, 2021) Commonwealth Clean Energy Policy.

A. The Commonwealth recognizes that effectively addressing climate change and enhancing resilience will advance the health, welfare, and safety of the residents of the Commonwealth. The Commonwealth further recognizes that addressing climate change requires reducing greenhouse gas emissions across the Commonwealth's economy sufficient to reach net-zero emission by 2045 in all sectors, including the electric power, transportation, industrial, agricultural, building, and infrastructure sectors. To achieve these objectives, it shall be the policy of the Commonwealth to:

1. Develop energy resources necessary to produce 30 percent of Virginia's electricity from renewable energy sources by 2030 and 100 percent of Virginia's electricity from carbon-free sources by 2040;
2. Enable widespread integration of distributed energy resources, including energy storage and rooftop solar, into the grid to achieve decarbonization and to enhance resilience;
3. Support the distributed generation of renewable electricity by:
  - a. Encouraging private sector investments in distributed renewable energy;

- b. Increasing the security of the electricity grid by supporting distributed renewable energy projects and energy storage with the potential to supply electric energy to critical facilities during a widespread power outage; and
- c. Enhancing the ability of private property owners to generate their own renewable energy for their own personal use from renewable energy sources on their property;
- 4. Lead by example in state government by supporting the carbon-free energy resources required to fully decarbonize the electric power supply of the Commonwealth, including deploying 30 percent renewables by 2030, realizing 100 percent carbon-free electric power by 2040, and achieving net zero emissions by 2045;
- 5. Maximize energy efficiency programs as defined in § [56-576](#), to the extent determined to be in the public interest, that are the lowest-cost energy option to reduce greenhouse gas emissions, in order to produce electricity cost savings and to create jobs and economic opportunity from the energy efficiency sector;
- 6. Support net-zero emission targets by promoting zero-emission vehicles and infrastructure, including electrified transport, decreasing the carbon intensity of the transportation sector, encouraging alternative transportation options, and increasing the efficiency of motor vehicles operating on Virginia's roads;
- 7. Support electric distribution grid transformation projects as defined in § [56-576](#);
- 8. Promote building and construction practices that reduce emissions associated with built environment, including energy efficiency targets, new building standards, and transit-oriented and other sustainable development practices; and
- 9. Ensure that energy development projects avoid, minimize, and, if necessary, mitigate damage to the Commonwealth's natural and cultural resources.

B. The Commonwealth recognizes the need to promote environmental justice and ensure that it is carried out throughout the Commonwealth, as provided in § [2.2-235](#), and the need to address and prevent energy inequities in historically economically disadvantaged communities, as defined in § [56-576](#). To achieve these objectives, it shall be the policy of the Commonwealth to:

- 1. Recognize the disproportionate and inequitable impacts of climate change on historically economically disadvantaged communities and prioritize solutions and investment in these communities to maximize the benefits of clean energy and minimize the burdens of climate change;
- 2. Ensure the fair treatment and meaningful involvement, as those terms are defined in § [2.2-234](#), of all people regardless of race, color, national origin, faith, disability, or income with respect to the administration of energy laws, regulations, and policies; and
- 3. Increase access to clean energy and the benefits from clean energy to historically economically disadvantaged communities.

C. As Virginia transforms its energy economy, the Commonwealth must continue to prioritize economic competitiveness and workforce development in an equitable manner. To achieve this objective, it shall be the policy of the Commonwealth to:

1. Equitably incorporate requirements for technical, policy, and economic analyses and assessments that recognize the unique attributes of different energy resources and delivery systems to identify pathways to net-zero carbon that maximize Virginia's energy reliability and resilience, economic development, and jobs;
2. Require that pathways to net-zero greenhouse gas emissions be determined on the basis of technical, policy, and economic analysis to maximize their effectiveness, optimize Virginia's economic development, support industrial employment, and create quality jobs while minimizing adverse impacts on public health, affected communities, and the environment;
3. Ensure an adequate energy supply and a Virginia-based energy production capacity, while also optimizing intrastate and interstate use of energy supply and delivery to maximize energy availability, reliability, and price opportunities to the benefit of all user classes and the Commonwealth's economy;
4. Increase wind energy development and grow the Commonwealth's role as a wind industry hub for offshore wind generation projects in state and federal waters off the United States coast;
5. Ensure the availability of reliable energy at costs that are reasonable and in quantities that will support the Commonwealth's economy;
6. Ensure reliable energy availability in the event of a disruption occurring to a portion of the Commonwealth's energy matrix and to address the needs of businesses during the transition to clean energy;
7. Minimize the Commonwealth's long-term exposure to volatility and increases in world energy prices by expanding the use of innovative clean energy technology within the Commonwealth;
8. Create training opportunities and green career pathways for local workers and workers in historically economically disadvantaged communities in onshore and offshore wind, solar energy, electrification, energy efficiency, clean transportation, and other emerging clean energy industries;
9. Support the repurposing and development of clean energy resources on previously developed project sites as defined in § [56-576](#);
10. Ensure that decision making is transparent and includes opportunities for full participation by the public;
11. Explore approaches to maximizing and leveraging the capacity of lands and waters in the Commonwealth to store energy; and
12. Increase the Commonwealth's reliance on and production of sustainably produced biofuels made from traditional agricultural crops and other feedstocks, such as winter cover crops, warm season grasses, fast-growing trees, algae, or other suitable feedstocks grown in the Commonwealth, that will

(i) create jobs and income, (ii) produce clean-burning fuels that will help to improve air quality, and (iii) provide the new markets for Virginia's silvicultural and agricultural products needed to preserve farm employment, conserve farmland and forestland, and increase implementation of silvicultural and agricultural best management practices to protect water quality.

D. The elements of the policy set forth in subsections A, B, and C shall be referred to collectively in this title as the Commonwealth Clean Energy Policy.

E. All agencies and political subdivisions of the Commonwealth, in taking discretionary action with regard to energy issues, shall recognize the elements of the Commonwealth Clean Energy Policy and, where appropriate, shall act in a manner consistent therewith.

F. The Commonwealth Clean Energy Policy is intended to provide guidance to the agencies and political subdivisions of the Commonwealth in taking discretionary action with regard to energy issues and shall not be construed to amend, repeal, or override any contrary provision of applicable law. Nothing in this section shall preclude reliable access to electricity and natural gas during the transition to renewable energy. The failure or refusal of any person to recognize the elements of the Commonwealth Clean Energy Policy, to act in a manner consistent with the Commonwealth Clean Energy Policy, or to take any other action whatsoever shall not create any right, action, or cause of action or provide standing for any person to challenge the action of the Commonwealth or any of its agencies or political subdivisions.

2021, Sp. Sess. I, cc. [326](#), [327](#).

#### **§ 67-102. Repealed.**

Repealed by Acts 2021, Sp. Sess. I, c. [327](#), cl. 2, effective July 1, 2021.

#### **§ 67-103. (Repealed effective October 1, 2021) Role of local governments in achieving objectives of the Commonwealth Clean Energy Policy.**

In the development of any local ordinance addressing the siting of renewable energy facilities that generate electricity from wind or solar resources, the ordinance shall:

1. Be consistent with the provisions of the Commonwealth Clean Energy Policy pursuant to subsection E of § [67-101.1](#);
2. Provide reasonable criteria to be addressed in the siting of any renewable energy facility that generates electricity from wind and solar resources. The criteria shall provide for the protection of the locality in a manner consistent with the goals of the Commonwealth to promote the generation of energy from wind and solar resources; and
3. Include provisions establishing reasonable requirements upon the siting of any such renewable energy facility, including provisions limiting noise, requiring buffer areas and setbacks, and addressing generation facility decommissioning.

Any measures required by the ordinance shall be consistent with the locality's existing ordinances.

2011, c. [750](#); 2021, Sp. Sess. I, c. [327](#).

**§ 67-104. (Repealed effective October 1, 2021) Nuclear energy; considered a clean energy source.**  
For the purposes of the Commonwealth Clean Energy Policy as set out in § [67-101.1](#), in any clean energy initiative or carbon-free energy initiative undertaken, overseen, regulated, or permitted by the Department, nuclear energy shall be considered to be a clean energy source.

2020, c. [960](#); 2021, Sp. Sess. I, c. [327](#).

## **Chapter 2 - Virginia Energy Plan**

**§ 67-200. (Repealed effective October 1, 2021) Definitions.**

As used in this title, unless the context requires a different meaning:

"Department" means the Department of Mines, Minerals and Energy.

"Division" means the Division of Energy of the Department of Mines, Minerals and Energy.

"Plan" means the Virginia Energy Plan prepared pursuant to this chapter, including any updates thereto.

2006, c. [939](#); 2020, cc. [657](#), [658](#), [960](#).

**§ 67-201. (Repealed effective October 1, 2021) Development of the Virginia Energy Plan.**

A. T. The Division, in consultation with the State Corporation Commission, the Department of Environmental Quality, the Clean Energy Advisory Board, solar, wind, energy efficiency, and transportation electrification sectors, and a stakeholder group that shall include 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 § [67-101.1](#) to achieve, no later than 2045, a net-zero carbon energy economy for all sectors, including electricity, transportation, building, agricultural, and industrial sectors. The Plan shall propose actions, consistent with the objectives enumerated in § [67-101.1](#), that will implement the Commonwealth Clean Energy Policy set forth in § [67-101.1](#).

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 these 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 these Virginia-specific issues relate to regional initiatives to assure the adequacy of fuel production, generation, transmission, and distribution assets;
7. An analysis of siting of energy resource development, refining or transmission facilities to identify any disproportionate adverse impact of such activities on economically disadvantaged or minority communities;
8. With regard to any regulations proposed or promulgated by the U.S. Environmental Protection Agency to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111 (d) of the Clean Air Act, 42 U.S.C. § 7411 (d), an analysis of (i) the costs to and benefits for energy producers and electric utility customers; (ii) the effect on energy markets and reliability; and (iii) the commercial availability of technology required to comply with such regulations;
9. An inventory of greenhouse gas emissions using a method determined by the Department of Environmental Quality for the four years prior to the issuance of the Plan;
10. Data regarding the number and type of electric and hybrid electric vehicles currently registered in the Commonwealth; projections of future electric vehicle sales across all vehicle classes, taking into consideration the impact of current and potential statewide policies; and analysis of the impact that the growth of electrified transit on the Commonwealth's electric system;
11. An analysis of the Commonwealth's current electric vehicle charging infrastructure and all future infrastructure needed to support the 2045 net-zero carbon target in the transportation sector, including chargers, make-ready electrical equipment, and supporting hardware and software needed to support the electrification of all vehicle categories used on and off roads and highways, including light-duty, medium-duty, and heavy-duty vehicles and electric bicycles, as well as that needed to electrify ground transportation at all ports and airports, with particular attention to the needs of historically economically disadvantaged communities as defined in § [56-576](#) and any state or local impediments to deployment; and
12. Recommendations, based on the analyses completed under subdivisions 1 through 11, for legislative, regulatory, and other public and private actions to implement the elements of the Commonwealth Clean Energy Policy.

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

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

E. After July 1, 2007, upon receipt by the Division of a recommendation from the Department of General Services, a local governing body, or the parcel's owner that a parcel of real property is a potentially suitable location for a wind energy facility or solar energy facility, the Division shall analyze the suitability of the parcel for the location of such a facility. In conducting its analysis, the Division shall ascribe a numerical score to the parcel using the scoring system developed pursuant to subsection D.

2006, c. [939](#); 2014, cc. [603](#), [756](#); 2020, cc. [1191](#), [1192](#); 2021, Sp. Sess. I, cc. [326](#), [327](#).

**§ 67-202. (Repealed effective October 1, 2021) Schedule.**

A. The Division shall complete the Plan by July 1, 2007.

B. Prior to completion of the Plan and updates thereof, the Division shall present drafts to, and consult with, the Coal and Energy Commission and the Commission on Electric Utility Regulation.

C. The Plan shall be updated by the Division and submitted as provided in § [67-203](#) by July 1, 2010, October 1, 2014, and every fourth October 1 thereafter. In addition, the Division shall provide interim updates on the Plan by October 1 of the third year of each administration. Updated reports shall specify any progress attained toward each proposed action of the Plan, as well as reassess goals for energy conservation based on progress to date in meeting the goals in the previous plan and lessons learned from attempts to meet such goals.

D. Beginning with the Plan update in 2014, the Division shall include a section to set forth energy policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d). In this section of the Plan, the Division shall address policy options for establishing separate standards of performance pursuant to § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired electric generating units to promote the Plan's overall goal of fuel diversity as follows:



1. The Plan shall address policy options for establishing the standards of performance for existing coal-fired electric generating units, including but not limited to the following factors:
  - a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c) the energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired electric generating units that are subject to the standard of performance;
  - b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably undertaken at each coal-fired electric generating unit; and
  - c. Increased efficiencies and other measures that can be implemented at each coal-fired electric generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other fuels, co-firing other fuels with coal, or limiting the utilization of the unit.
2. The Plan shall also address policy options for establishing the standards of performance for existing gas-fired electric generating units, including but not limited to the following factors:
  - a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric generating units, instead of to coal-fired electric generating units; and
  - b. Increased efficiencies and other measures that can be reasonably implemented at the unit to reduce carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon fuels or limiting the utilization of the unit.
3. The Plan shall examine policy options for state regulatory action to adopt less stringent standards or longer compliance schedules than those provided for in applicable federal rules or guidelines based on analysis of the following:
  - a. Consumer impacts, including any disproportionate impacts of energy price increases on lower-income populations;
  - b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic process design;
  - c. Physical difficulties with or impossibility of implementing emission reduction measures;
  - d. The absolute cost of applying the performance standard to the unit;
  - e. The expected remaining useful life of the unit;
  - f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to comply with the performance standard; and
  - g. Any other factors specific to the unit that make application of a less stringent standard or longer compliance schedule more reasonable.
4. The Plan shall identify options, to the maximum extent permissible, for any federally required regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units, regulatory

mechanisms that provide flexibility in complying with such standards, including the averaging of emissions, emissions trading, or other alternative implementation measures that are determined to further the interests of the Commonwealth and its citizens.

2006, c. [939](#); 2008, cc. [651](#), [883](#); 2014, cc. [161](#), [419](#), [603](#), [756](#); 2021, Sp. Sess. I, c. [326](#).

**§ 67-202.1. (Repealed effective October 1, 2021) Annual reporting by investor-owned public utilities.**

Each investor-owned public utility providing electric service in the Commonwealth shall prepare an annual report disclosing its efforts to conserve energy, including but not limited to (i) its implementation of customer demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve energy in its internal operations pursuant to § [56-235.1](#). The utility shall submit each annual report to the Division of Energy of the Department of Mines, Minerals and Energy by November 1 of each year, and the Division shall compile the reports of the utilities and submit the compilation to the Governor and the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

2008, c. [651](#).

**§ 67-203. Submission of Plan.**

Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the Governor, the Commissioners of the State Corporation Commission, and the General Assembly. The Plan shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents. The Plan's executive summary shall be posted on the General Assembly's website.

2006, c. [939](#).

## **Chapter 3 - Offshore Wind Energy Resources**

**§ 67-300. Offshore wind energy resources; policy.**

It is the policy of the Commonwealth to support federal efforts to examine the feasibility of offshore wind energy being utilized in an environmentally responsible fashion.

2006, c. [939](#); 2010, cc. [607](#), [756](#); 2020, cc. [451](#), [452](#).

**§ 67-301. Repealed.**

Repealed by Acts 2020, cc. [451](#) and [452](#), cl. 2

## **Chapter 4 - CLEAN COAL PROJECTS**

**§ 67-400. Definitions.**

As used in this chapter:

"Center" means the Virginia Center for Coal and Energy Research.

"Clean coal project" means any project that uses any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use, or is otherwise defined as clean coal technology pursuant to 42 U.S.C. § 7651n.

2006, c. [939](#).

#### **§ 67-401. Permitting process for clean coal projects.**

To the extent authorized by federal law, the State Air Pollution Control Board shall implement permit processes that facilitate the construction of clean coal projects in the Commonwealth by, among such other actions as it deems appropriate, giving priority to processing permit applications for clean coal projects.

2006, c. [939](#).

#### **§§ 67-402, 67-403. Expired.**

Expired.

### **Chapter 5 - BIODIESEL FUEL**

#### **§ 67-500. Definitions.**

As used in this chapter:

"Biodiesel fuel" means a renewable, biodegradable, mono-alkyl ester combustible liquid fluid fuel from agricultural plant oils or animal fats that meets the applicable American Society for Testing and Materials (ASTM) Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

2006, c. [939](#).

#### **§ 67-501. Use of biodiesel and other alternative fuels in vehicles providing public transportation.**

The Commonwealth Transportation Board shall encourage the use of biodiesel fuel and other alternative fuels, to the extent practicable, in buses and other vehicles used to provide public transportation in the Commonwealth.

2006, c. [939](#).

### **Chapter 6 - VIRGINIA COASTAL ENERGY RESEARCH CONSORTIUM**

#### **§ 67-600. Virginia Coastal Energy Research Consortium established.**

The Virginia Coastal Energy Research Consortium, hereinafter referred to as the Consortium, is hereby created to include Old Dominion University, the Virginia Institute of Marine Science of The College of William and Mary in Virginia, the Advanced Research Institute of Virginia Polytechnic Institute and State University, James Madison University, Norfolk State University, Virginia Commonwealth University, Hampton University, George Mason University, and the University of Virginia and is to be located at Old Dominion University.

2006, c. [939](#); 2007, c. [904](#); 2009, c. [575](#); 2010, c. [695](#).

### **§ 67-601. Functions, powers, and duties of the Consortium.**

The Consortium shall serve as an interdisciplinary study, research, and information resource for the Commonwealth on coastal energy issues. As used in this chapter, "coastal energy" includes wave or tidal action, currents, offshore winds, thermal differences, and methane hydrates. The Consortium shall (i) consult with the General Assembly, federal, state, and local agencies, nonprofit organizations, private industry and other potential users of coastal energy research; (ii) establish and administer agreements with other baccalaureate institutions of higher education in the Commonwealth to carry out research projects relating to the feasibility of increasing the Commonwealth's reliance on all domestic forms of coastal energy; (iii) disseminate new information and research results; (iv) apply for grants made available pursuant to federal legislation, including but not limited to the federal Methane Hydrate Research and Development Act of 2000, P.L. 106-193 and from other sources; and (v) facilitate the application and transfer of new coastal energy technologies.

2006, c. [939](#); 2009, c. [575](#).

### **§ 67-602. (Repealed effective October 1, 2021) Control and supervision.**

The Consortium shall be governed by a board of directors, which shall consist of 16 voting members as follows: (i) the Director of the Department of Mines, Minerals and Energy or his designee; (ii) the Commissioner of the Virginia Marine Resources Commission or his designee; (iii) the President of the Virginia Manufacturers Association or his appointed member of the maritime manufacturing industry; (iv) the President of the Virginia Maritime Association or his appointed member of the maritime industry; (v) the Director of the Advanced Research Institute of Virginia Polytechnic Institute and State University or his designee; (vi) the President of Old Dominion University or his designee; (vii) the Director of the Virginia Institute of Marine Science of The College of William and Mary in Virginia or his designee; (viii) the President of Norfolk State University or his designee; (ix) the President of James Madison University or his designee; (x) the President of Virginia Commonwealth University or his designee; (xi) the President of the University of Virginia or his designee; (xii) the President of Hampton University or his designee; (xiii) the President of George Mason University or his designee; (xiv) the chairman of the Hampton Roads Technology Council or his appointed member of the technology community; (xv) the Director of the Hampton Roads Clean Cities Coalition or his appointed member of the renewable energy industry; and (xvi) the Director of the Department of Environmental Quality or his designee as the lead agency for the Virginia Coastal Zone Management Program.

In addition, a representative of the National Aeronautics and Space Administration's Langley Research Center, to be selected by the director of the Research Center, shall serve as a nonvoting ex officio member of the Consortium's board of directors.

2006, c. [939](#); 2007, c. [904](#); 2009, c. [575](#); 2010, c. [695](#).

### **§ 67-603. Appointment of a director.**

The board of the Consortium shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall report to the board of the Consortium and be under its supervision.

2006, c. [939](#); 2009, c. [575](#).

#### **§ 67-604. Powers and duties of the director.**

The executive director shall exercise all powers imposed upon him by law, carry out the specific duties imposed on him by the board of the Consortium, and develop appropriate policies and procedures for (i) identifying priority coastal energy research projects; (ii) cooperating with the General Assembly, federal, state, and local governmental agencies, nonprofit organizations and private industry in formulating its research projects; (iii) selecting research projects to be funded; and (iv) disseminating information and transferring technology related to coastal energy within the Commonwealth. The executive director shall employ such personnel and secure such services as may be required to carry out the purposes of the Consortium, expend appropriated funds, and accept moneys from federal or private sources for cost-sharing on coastal energy projects.

2006, c. [939](#); 2009, c. [575](#).

## **Chapter 7 - Covenants Restricting Solar Energy Collection Devices**

#### **§ 67-700. Definitions.**

As used in this chapter:

"Community association" means an unincorporated association or corporation that owns or has under its care, custody, or control real estate subject to a recorded declaration of covenants that obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated association or corporation.

"Solar energy collection device" means any device manufactured and sold for the sole purpose of facilitating the collection and beneficial use of solar energy, including passive heating panels or building components and solar photovoltaic apparatus.

2006, c. [939](#); 2008, c. [881](#).

#### **§ 67-701. Covenants regarding solar power.**

A. No community association shall prohibit an owner from installing a solar energy collection device on that owner's property unless the recorded declaration for that community association establishes such a prohibition. However a community association may establish reasonable restrictions concerning the size, place, and manner of placement of such solar energy collection devices on property designated and intended for individual ownership and use. Any resale certificate pursuant to § [55.1-1990](#) and any disclosure packet pursuant to § [55.1-1809](#), as applicable, given to a purchaser shall contain a statement setting forth any restriction, limitation, or prohibition on the right of an owner to install or use solar energy collection devices on his property.

B. A restriction shall be deemed not to be reasonable if application of the restriction to a particular proposal (i) increases the cost of installation of the solar energy collection device by five percent over the projected cost of the initially proposed installation or (ii) reduces the energy production by the solar energy collection device by 10 percent below the projected energy production of the initially proposed

installation. The owner shall provide documentation prepared by an independent solar panel design specialist, who is certified by the North American Board of Certified Energy Practitioners and is licensed in Virginia, that is satisfactory to the community association to show that the restriction is not reasonable according to the criteria established in this subsection.

C. The community association may prohibit or restrict the installation of solar energy collection devices on the common elements or common area within the real estate development served by the community association. A community association may establish reasonable restrictions as to the number, size, place, and manner of placement or installation of any solar energy collection device installed on the common elements or common area.

2006, c. [939](#); 2008, c. [881](#); 2009, c. [866](#); 2013, c. [357](#); 2014, c. [525](#); 2020, cc. [272](#), [795](#).

## **Chapter 8 - MOTOR VEHICLE FUEL EFFICIENCY STANDARDS**

### **§ 67-800. Definitions.**

As used in this section, "CAFE standards" means the corporate average fuel economy standards for passenger cars and light trucks manufactured for sale in the United States that have been implemented pursuant to the federal Energy Policy and Conservation Act of 1975 (P. L. 94-163), as amended.

2006, c. [939](#).

### **§ 67-801. Efforts to increase CAFE standards.**

It is the policy of the Commonwealth to support federal action that provides for:

1. An increase the CAFE standards from the current standard by promoting performance-based tax credits for advanced technology, fuel-efficient vehicles to facilitate the introduction and purchase of such vehicles; and
2. Market incentives and education programs to build demand for high-efficiency, cleaner vehicles, including tax incentives for highly efficient vehicles.

2006, c. [939](#).

## **Chapter 9 - RENEWABLE ELECTRICITY PRODUCTION GRANT PROGRAM**

### **§ 67-900. (Contingent effective date; Repealed effective October 1, 2021) Definitions.**

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ [58.1-400](#) et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of Mines, Minerals and Energy.

"Fund" means the Renewable Electricity Production Grant Fund established pursuant to § [67-902](#).



"Qualified energy resources" means solar, wind, closed-loop biomass, organic, livestock, and poultry waste resources and lignin and other organic by-products of kraft pulping processes, bark, chip rejects, sawdust, fines and other wood waste, regardless of the point of origin.

"Qualified Virginia facility" means a facility located in the Commonwealth that uses qualified energy resources to produce electricity, and that is originally placed in service on or after January 1, 2007.

2006, c. [939](#); 2007, c. [789](#).

**. (Contingent effective date -- see Editor's note) Eligibility for grants for production of qualified energy resources.**

Subject to appropriation of sufficient moneys in the Fund, an eligible corporation may receive a grant payable from the Fund for certain kilowatt hours of electricity produced after December 31, 2006. The grant amount shall be \$.0085 for each kilowatt hour of electricity (i) produced by the corporation from qualified energy resources at a qualified Virginia facility and (ii) sold and transmitted into the electric grid, or used in production by a qualified Virginia facility, in a calendar year. Grant amounts shall be based on each such kilowatt hour of electricity sold or used in production by a qualified Virginia facility beginning with calendar year 2007.

2006, c. [939](#); 2007, c. [789](#).

**. (Contingent effective date -- see Editor's note) Renewable Electricity Production Grant Fund.**

A. There is hereby established in the state treasury a special nonreverting fund to be known as the Renewable Electricity Production Grant Fund. The Fund shall consist of such moneys as may be appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used solely for the payment of the grants provided under this chapter. The Department shall administer the Fund.

B. The Department shall allocate moneys from the Fund in the following order of priority: (i) first to unpaid grant amounts carried forward from prior years because eligible corporations did not receive the full amount of any grant to which they were eligible in a prior year pursuant to this chapter and (ii) then to other approved applicants. If the moneys in the Fund are less than the amount of grants to which approved applicants in any class of priority are eligible, the moneys in the Fund shall be apportioned pro rata among eligible applicants in such class, based upon the amount of the grant to which an approved applicant is eligible and the amount of money in the Fund available for allocation to such class.

C. The Department shall not allocate an amount in excess of the moneys available in the Fund for the payment of grants.

D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine the amount of the grants to be allocated to eligible corporations and (ii) certify to the Comptroller and each

eligible corporation the amount of the grant allocated to such corporation. Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such certification, subject to appropriation of sufficient moneys in the Fund.

E. If a grant recipient is allocated less than the full amount of a grant to which it is eligible in any year pursuant to this chapter, such corporation shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which it was eligible shall be carried forward by the Department to the following year, during which it shall be in the first class of priority as provided in clause (i) of subsection B.

F. In no case shall the Department certify grants from the Fund for kilowatts of electricity produced prior to January 1, 2007.

G. Actions of the Department relating to the allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § [2.2-4002](#).

2006, c. [939](#); 2007, c. [789](#).

**. (Contingent effective date -- see Editor's note) Requirements for grants generally.**

A. The Department shall establish an application process by which eligible corporations shall apply for a grant under this chapter. An application for a grant under this chapter shall not be approved until the Department has verified that the electricity has been produced from qualified energy resources at a qualified Virginia facility and that sufficient moneys are available in the Fund.

B. The application shall be filed with the director of the Department no later than March 31 each year following the calendar year in which such kilowatt hours of electricity were sold or used in production by a qualified Virginia facility. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for such kilowatt hours of electricity sold or so used in the prior calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

C. The application shall provide evidence, satisfactory to the Department, of the number of kilowatt hours of electricity produced by the corporation from qualified energy resources at a qualified Virginia facility that were sold, or used in production by a qualified Virginia facility, by such corporation in the prior calendar year.

D. As a condition of receipt of a grant, an eligible corporation shall make available to the Department for inspection upon request all relevant and applicable documents to determine whether the requirements for the receipt of grants as set forth in this chapter have been satisfied. All such documents appropriately identified by the eligible corporation shall be considered confidential and proprietary.

E. A corporation receiving a grant for the production and sale of kilowatt hours of electricity under this chapter may not use the production or sale of such kilowatt hours of electricity as the basis for claiming any other grant or credit against taxes, as provided under the Code of Virginia or in an appropriation act.

2006, c. [939](#).

## Chapter 10 - Solar and Wind Energy System Acquisition Grant Program

### § 67-1000. (Contingent effective date; Repealed effective October 1, 2021) Definitions.

As used in this chapter, unless the context clearly requires otherwise:

"Corporation" means an entity subject to the tax imposed by Article 10 (§ [58.1-400](#) et seq.) of Chapter 3 of Title 58.1.

"Department" means the Department of Energy.

"Fund" means the Solar and Wind Energy System Acquisition Grant Fund established pursuant to § [67-1002](#).

"Individual" means the same as that term is defined in § [58.1-302](#).

"Photovoltaic property" means property that uses a solar photovoltaic process to generate electricity and that meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Solar water heating property" means property that, when installed in connection with a structure, uses solar energy for the purpose of providing hot water for use within the structure and meets applicable performance and quality standards and certification requirements in effect at the time of acquisition of the property, as specified by the Department.

"Wind-powered electrical generator" means an electrical generating unit that (i) has a capacity of not more than 10 kilowatts, (ii) uses wind as its total source of fuel, (iii) is located on the individual's or corporation's premises, (iv) is intended primarily to offset all or part of the individual's or corporation's own electricity requirements, and (v) meets applicable performance and quality standards as specified by the Department.

2006, c. [939](#); 2007, c. [789](#).

### § 67-1001. (Contingent effective date; Repealed effective October 1, 2021) Eligibility for grants for installation of photovoltaic property, solar water heating property, and wind-powered electrical generators.

A. Subject to appropriation of sufficient moneys in the Fund, beginning with calendar year 2007, an eligible individual or corporation may receive a grant payable from the Fund for a portion of the cost of photovoltaic property, solar water heating property, or wind-powered electrical generators placed in service during the calendar year by such individual or corporation. The grant amount shall be 15% of the total installed cost of photovoltaic property, solar water heating property, or wind-powered electrical generators but shall not exceed an aggregate total of:

1. \$2,000 for each system of photovoltaic property;
2. \$1,000 for each system of solar water heating property; and
3. \$1,000 for each system of wind-powered electrical generators.

B. Persons or entities placing in service photovoltaic property, solar water heating property, or wind-powered electrical generators for or on behalf of another person or entity shall not be eligible to receive a grant for such property.

2006, c. [939](#); 2007, c. [789](#).

**§ 67-1002. (Contingent effective date; Repealed effective October 1, 2021) Solar and Wind Energy System Acquisition Grant Fund.**

A. There is hereby established in the state treasury a special nonreverting fund to be known as the Solar and Wind Energy System Acquisition Grant Fund. The Fund shall consist of such moneys as may be appropriated by the General Assembly from time to time. Any moneys deposited to or remaining in the Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund and be available for allocation under this chapter in ensuing fiscal years. Interest on all moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be used solely for the payment of the grants provided under this chapter. The Department shall administer the Fund.

B. The Department shall allocate moneys from the Fund to applicants in the order in which their applications are received, until all funds allocated for that fiscal year are expended.

C. The Department shall not allocate an amount in excess of the moneys available in the Fund for the payment of grants.

D. Beginning in calendar year 2007, by June 30 of each year, the Department shall (i) determine the amount of the grants to be allocated to eligible individuals and corporations, and (ii) certify to the Comptroller and each eligible grant applicant the amount of the grant allocated to such applicant. Payment of such grants shall be made by the State Treasurer on warrant of the Comptroller within 60 days of such certification.

E. In no case shall the Department certify grants from the Fund for photovoltaic property, solar water heating property, or wind-powered electrical generators placed in service prior to January 1, 2007.

F. Actions of the Department relating to the allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act pursuant to subdivision B 4 of § [2.2-4002](#).

2006, c. [939](#); 2007, c. [789](#).

**§ 67-1003. (Contingent effective date; Repealed effective October 1, 2021) Requirements for grants generally.**

A. The Department shall establish an application process by which eligible individuals and corporations shall apply for a grant under this chapter, as follows:

1. Eligible individuals and corporations may submit an application before the equipment is installed. In this case, the Department, within 14 days of receiving the application, shall notify the applicant as to whether sufficient moneys remain in the Fund to satisfy a potential grant award to the applicant. The

Department shall reserve such funds for the applicant for the calendar year in which the applicant applies.

2. The application shall be filed with the director of the Department no later than March 31 of the year following the calendar year in which such property was placed in service. Failure to meet the filing deadline shall render the applicant ineligible to receive a grant for photovoltaic property, solar water heating property, or wind-powered electrical generators placed in service in the prior calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

B. In order to receive payment of grant funds, the applicant shall provide evidence, satisfactory to the Department, of the total installed cost of each system of photovoltaic property, solar water heating property, or wind-powered electrical generators placed in service by such individual or corporation in the prior calendar year.

C. As a condition of receipt of a grant, an eligible individual or corporation shall make available to the Department for inspection upon request all relevant and applicable documents to determine whether the requirements for the receipt of grants as set forth in this chapter have been satisfied.

D. An individual or corporation receiving a grant pursuant to this chapter for a system of photovoltaic property, solar water heating property, or wind-powered electrical generators may not use such system as the basis for claiming any other grant or credit against taxes, as provided under the Code of Virginia or in an appropriation act.

2006, c. [939](#); 2007, c. [789](#).

## **Chapter 11 - Renewable Energy Co-Location of Distribution Facilities**

### **§ 67-1100. (Repealed effective October 1, 2021) Definitions.**

As used in this chapter, unless the context requires otherwise:

"Commission" means the State Corporation Commission.

"Distribution facilities" includes poles and wires, or cables, or pipelines or other underground conduits by which a renewable generator is able to (i) supply electricity generated at its renewable energy facility to the electric distribution grid, (ii) distribute steam generated at its renewable energy facility to customers, or (iii) supply landfill gas it collects to customers or a natural gas distribution or transmission pipeline.

"Locality" has the meaning ascribed thereto in § [15.2-102](#).

"Public highway" means, for purposes of computing the public rights-of-way use fee, the centerline mileage of highways and streets that are part of the primary state highway system as defined in § [33.2-100](#), the secondary state highway system as defined in §§ [33.2-100](#) and [33.2-324](#), the highways of those cities and certain towns defined in § [33.2-319](#), and the highways and streets maintained and operated by counties that have withdrawn or elect to withdraw from the secondary system of state high-

ways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that have not elected to return.

"Public rights-of-way use fee" means the fee chargeable to a renewable generator for the occupation and use of public streets, roads, highways, works, turnpikes, streets, avenues, and alleys in the Commonwealth by a locality or the Commonwealth Transportation Board for a renewable generator for its distribution facilities.

"Renewable energy facility" means (i) an electrical generation facility that produces not more than 2 megawatts peak net power output to the distribution grid, which electricity is generated only from a renewable energy source; (ii) a steam reduction facility with a rated capacity of not more than 5,000 mmBtus per hour that produces steam only from a renewable energy source; or (iii) a solid waste management facility permitted by the Department of Environmental Quality from which landfill gas is transmitted or distributed off premises.

"Renewable energy source" means energy derived from any source specified in the definition of renewable energy in § [56-576](#).

"Renewable generator" means a person that (i) does not have the power of a public service corporation to acquire rights-of-way, easements, or other interests in lands as provided in § [56-49](#) and (ii) operates a renewable energy facility.

"Restrictions or requirements concerning the use of the public rights-of-way" includes permitting processes; requirements regarding notice, time and location of excavations and repair work; enforcement of the statewide building code; and inspections. Such phrase shall not include any existing franchise fee or public rights-of-way use fee.

2009, c. [807](#).

**§ 67-1101. (Repealed effective October 1, 2021) Right to occupy rights-of-way; location of same.**

A. Every renewable generator shall have authority to occupy and use the public roads, works, turnpikes, streets, avenues, and alleys in any county, with the consent of the board of supervisors or other governing authority thereof, or in any incorporated city or town, with the consent of the council thereof, and the waterways within the Commonwealth, with the consent of the Marine Resources Commission, for the erection of distribution facilities. However, if the road or street is in the primary state highway system or the secondary state highway system, the consent of the board of supervisors or other governing authority of any county shall not be necessary, provided that a permit for such occupation and use is first obtained from the Department of Transportation. The use of any road or street in the primary state highway system or secondary state highway system that has been designated a limited access highway in accordance with § [33.2-401](#) shall not be permitted, unless the Department of Transportation approves an exception in accordance with the then current policy.

B. No locality or the Department of Transportation shall impose any fees on a renewable generator for the use of public rights-of-way except in the manner prescribed in § [67-1103](#).



C. No locality or the Department of Transportation shall impose on renewable generators, whether by franchise, ordinance, or other means, any restrictions or requirements concerning the use of the public rights-of-way that are (i) unfair or unreasonable or (ii) any greater than those imposed on providers of electric or natural gas utility service.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way or by the Department of Transportation of a renewable generator to use the public rights-of-way shall be granted or denied within 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. No locality receiving directly or indirectly a public rights-of-way use fee or the Department of Transportation shall require a renewable generator to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the public rights-of-way use fee.

F. This chapter shall not affect the obligation of the Department of Transportation to give notice, pursuant to § [33.2-272](#), to localities when it grants its permission for the construction, installation, location, or placement of a landfill gas pipeline within any highway right-of-way.

2009, c. [807](#); 2013, cc. [585](#), [646](#).

**§ 67-1102. (Repealed effective October 1, 2021) Occupation of property of certain localities; imposition of terms and conditions as to use of property.**

A. Any incorporated city or town may impose upon a renewable generator any terms and conditions consistent herewith and supplemental hereto, as to the occupation and use of its streets, avenues, and alleys, and as to the construction and maintenance of the distribution facilities of the renewable generator along, over, or under the same, that the city or town may deem expedient and proper.

B. No locality shall impose any fees on a renewable generator for the use of public rights-of-way except in the manner prescribed in § [67-1103](#).

C. No locality shall impose on a renewable generator, whether by franchise, ordinance, or other means, any restrictions or requirements concerning the use of the public rights-of-way that are (i) unfair or unreasonable or (ii) any greater than those imposed on providers of electric or natural gas utility service.

D. Notwithstanding any other provision of law, any permit or other permission required by a locality pursuant to a franchise, ordinance, or other permission to use the public rights-of-way of a renewable generator to use the public rights-of-way shall be granted or denied within 45 days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

E. No locality receiving directly or indirectly a public rights-of-way use fee shall require a renewable generator to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements, or in lieu of the public rights-of-way use fee.

F. A renewable generator shall have the same rights, duties and responsibilities related to the crossing of a railroad as afforded other public service corporations in §§ [56-12](#), [56-17](#), [56-18](#), [56-19](#), [56-20](#), [56-21](#), [56-22](#), [56-25](#), [56-26](#), and [56-27](#). Nothing in this chapter shall expand the rights of renewable generators to either cross or otherwise have access to railroad property to an extent greater than that afforded other public service corporations in Title 56.

2009, c. [807](#).

**§ 67-1103. (Repealed effective October 1, 2021) Public rights-of-way use fee.**

A. Notwithstanding any other provisions of law, there is hereby established a public rights-of-way use fee to be charged in lieu of any and all fees of general application, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, otherwise chargeable to a renewable generator by the Department of Transportation or a locality in connection with a permit for such occupation and use granted in accordance with § [67-1101](#) or [67-1102](#). The public rights-of-way use fee established by this section is imposed on all renewable generators that occupy and use public rights-of-way in order to (i) supply electricity generated at its renewable energy facility to the electric distribution grid, (ii) distribute steam generated at its renewable energy facility to customers, or (iii) supply landfill gas to customers or to a natural gas distribution or transmission pipeline.

B. The amount of the public rights-of-way use fee for a renewable generator shall be \$1,500 per mile or any portion thereof over which the renewable generator has installed distribution facilities.

C. A renewable generator shall remit its required public rights-of-way use fee to the locality or the Department of Transportation, as applicable, prior to initiation of construction, as follows:

1. The renewable generator shall remit directly to the applicable locality all public rights-of-way use fees billed in (i) cities; (ii) towns whose public streets and roads are not maintained by the Department of Transportation; and (iii) any county that has withdrawn or elects to withdraw from the secondary system of state highways under the provisions of § 11 of Chapter 415 of the Acts of Assembly of 1932 and that has elected not to return.

2. The public rights-of-way use fees in all other counties shall be remitted by each renewable generator to the Department of Transportation, and shall first be used to offset the administrative costs of processing the permit with the remaining fee being added to the secondary system construction improvement program funds of the counties where the facilities are located.

2009, c. [807](#); 2013, cc. [585](#), [646](#).

**§ 67-1104. (Repealed effective October 1, 2021) Reimbursement for relocation costs.**

A. Renewable generators shall be reimbursed 100 percent of the eligible cost of relocating distribution facilities installed in the public rights-of-way, for the first three years after the completion of the installation, that are incurred at the direction of a locality that imposes by ordinance the public rights-of-way use fee or the Department of Transportation in any public rights-of-way in accordance with §§ [56-458](#) and [56-462](#). For the fourth through sixth year after the completion of the installation, the renewable generator shall be reimbursed 50 percent of the eligible cost for the relocation of facilities installed in

the public rights-of-way. Beginning in the seventh year, the renewable generators shall be responsible for the cost of relocating facilities installed in the public rights-of-way. Such reimbursement shall be received from either (i) the locality that granted the permit or franchise to use such right-of-way or (ii) the Commonwealth Transportation Board if the road or street is in the primary state highway system or the secondary state highway system.

B. The amount of relocation reimbursement in any fiscal year to be reimbursed under this section shall not exceed the amount of public rights-of-way use fees received by that locality or the Department of Transportation from the renewable generator required to relocate its distribution facilities.

2009, c. [807](#).

**§ 67-1105. (Repealed effective October 1, 2021) Relocation of lines or works of renewable generator acquired by Commonwealth Transportation Board.**

Whenever a renewable generator is required by the Commonwealth Transportation Board or the Commissioner of Highways to remove any part of its distribution facilities off of the right-of-way of a road now or hereafter included in the primary or secondary state highway system, or if any right-of-way, property, or interest therein used and occupied by the renewable generator with its lines or works, or part thereof, is acquired by the Commonwealth Transportation Board or the Commissioner of Highways for the uses of the primary or secondary state highway system, or if the renewable generator is notified by such Board or Commissioner of the desire of such Board or Commissioner to acquire such right-of-way, property, or interest therein, used and occupied by such company with its lines or works, or part thereof, for the uses of the primary or secondary state highway system, the renewable generator shall relocate its lines or works, or the part or parts thereof affected.

2009, c. [807](#).

**§ 67-1106. (Repealed effective October 1, 2021) How consent of appropriate authorities obtained; terms of use.**

The consent required under § [67-1101](#), when given, shall be by ordinance regularly adopted by the council or other governing body of the city or town, or by resolution regularly adopted and spread upon the minutes by the board of supervisors or other governing authority of the county in which such line is to be located, or, if such permission is to be given by the Commissioner of Highways or his designee through the issuance of a land use permit. Such use of the public roads, turnpikes, streets, avenues, and alleys in any of the cities or towns or counties of the Commonwealth shall be subject to such terms, regulations and restrictions as may be imposed by the corporate authorities of any such city or town, or the board of supervisors or other governing authority of any such county, except that if the road or street is in the primary or secondary state highway system, as now or hereafter established, any occupation and use thereof under the provisions of this chapter, whether by consent heretofore or hereafter obtained, shall be subject to such terms, regulations, and restrictions as may be imposed by the Commonwealth Transportation Board not in conflict in incorporated cities and towns with any vested contractual rights of such company with such city or town.

2009, c. [807](#).

**§ 67-1107. (Repealed effective October 1, 2021) Cost to Commonwealth in connection with inspection and coordination of construction of line to be paid by renewable generator.**

The actual costs and expenses of the Commonwealth for the inspection or coordination of the construction or installation of any of the distribution facilities of the renewable generator, under the provisions of this chapter, under any permit of the Commonwealth Transportation Board shall be borne by the renewable generator. The sum of the payment required by this section shall be paid to the Department of Transportation within 30 days from the receipt of a progress or final bill from the Department of Transportation.

2009, c. [807](#).

**§ 67-1108. (Repealed effective October 1, 2021) Renewable generator may contract for right-of-way.**

A renewable generator may contract with any person that owns lands, or any interest, franchise, privilege, or easement therein or in respect thereto, over which distribution facilities are proposed to be constructed, for the right-of-way for erecting, repairing, and preserving its poles and other structures necessary for operating its facilities, and for sufficient land for the erection and occupation of offices at suitable distances along its distribution facilities.

2009, c. [807](#).

**§ 67-1109. (Repealed effective October 1, 2021) Construction of transmission facilities.**

All posts, poles, wires, cables, lines, pipelines, conduits, and other distribution facilities that shall be erected under any authority conferred by this chapter shall be so located as in no way to obstruct or interfere with public travel or the ordinary use of, or the safety and convenience of persons traveling through, on, or over, the public roads, turnpikes, streets, avenues, alleys, railroads, or waters in or upon which the same may be erected. All distribution facilities erected as aforesaid shall be placed at such height as the State Corporation Commission or the Commonwealth Transportation Board by regulation shall provide. Buried distribution facilities shall be laid at such distance below the surface of any public road, turnpike, street, avenue, or alley, and at such distance from the outside of any gas or water main or other conduit already laid under such public road, turnpike, street, avenue, or alley, as may be prescribed by the Commission or by the Commonwealth Transportation Board by regulation. No distribution facilities shall be strung across or laid, nor posts or poles erected, upon the property of any person without first obtaining the consent of the owner thereof. Such distribution facilities shall not damage private property without compensation therefor, nor in any way obstruct the navigation of any stream, or impair or endanger the use thereof by the public or any other person entitled to the use of the same. In consideration of co-locating on existing rights of way, the renewable generator shall meet the respective safety and clearance standards of the public service corporation including but not limited to the National Electrical Safety Code, the Underground Utility Damage Prevention Act (§ [56-265.14](#) et seq.), gas pipeline safety standards pursuant to § [56-257.2](#), and the public service corporation's own safety and clearance standards as the same are communicated to the renewable generator in writing, and any applicable federal laws and regulations.

2009, c. [807](#).

**§ 67-1110. (Repealed effective October 1, 2021) Restoring condition of ground.**

The portions of the surface of the roads, turnpikes, streets, avenues, or alleys, or of any pavements opened up or disturbed in erecting, repairing, laying or replacing distribution facilities under the provisions of this chapter shall be immediately restored to and maintained in good condition by the renewable generator doing such work. In case of the failure of the renewable generator to restore and maintain the same, the corporate authorities of the city or town, or the board of supervisors or other governing authority of the county, or the Commissioner of Highways, as the case may be, may properly restore and maintain the same, and the costs thereof may be recovered by the city or town, or county, or Commonwealth, from the renewable generator, in any court of proper jurisdiction.

2009, c. [807](#).

## **Chapter 12 - Virginia Offshore Wind Development Authority**

**§ 67-1200. (Repealed effective October 1, 2021) Definitions.**

As used in this chapter, unless the context requires another meaning:

"Authority" means the Virginia Offshore Wind Development Authority created pursuant to this chapter.

"Developer" means any private developer of offshore wind energy projects.

"Offshore wind energy project" means a wind-powered electric energy facility, including tower, turbine, and associated equipment, located off the coast of the Commonwealth beyond the Commonwealth's three-mile jurisdictional limit, and includes interests in land, improvements, and ancillary facilities.

"Transmission study" means a study to determine the potential interconnection options to accommodate multiple offshore wind energy projects in the Hampton Roads region.

2010, cc. [507](#), [681](#).

**§ 67-1201. (Repealed effective October 1, 2021) Authority created; purpose.**

The Virginia Offshore Wind Development Authority is created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the offshore wind energy industry, offshore wind energy projects, and associated supply chain vendors by collecting relevant metocean and environmental data, by identifying existing state and regulatory or administrative barriers to the development of the offshore wind energy industry, by working in cooperation with relevant local, state, and federal agencies to upgrade port and other logistical facilities and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels, and by ensuring that the development of such projects is compatible with other ocean uses and avian and marine resources, including both the possible interference with and positive effects on naval facilities and operations, NASA-Wallops Flight Facility operations, shipping lanes, recreational and commercial fisheries, and avian and marine species and habitats. The

Authority shall, in cooperation with the relevant state and federal agencies as necessary, recommend ways to encourage and expedite the development of the offshore wind energy industry. The Authority shall also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate.

The Authority shall have only those powers enumerated in this chapter.

2010, cc. [507](#), [681](#).

**§ 67-1202. (Repealed effective October 1, 2021) Membership; terms; vacancies; expenses.**

A. The Authority shall be composed of nine nonlegislative citizen members appointed by the Governor, one of whom shall be a representative of the Virginia Commercial Space Flight Authority. In addition, one ex officio member without voting privileges shall be selected by the Governor after consideration of the persons nominated by the Secretary of the Navy. With the exception of the representative of the Virginia Commercial Space Flight Authority, all members of the Authority shall reside in the Commonwealth.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members shall be as follows: three members shall be appointed for terms of four years; three members shall be appointed for terms of three years; and three members shall be appointed for terms of two years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#). Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.



G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

2010, cc. [507](#), [681](#); 2011, c. [17](#); 2012, c. [502](#).

**§ 67-1203. (Repealed effective October 1, 2021) Data collection.**

A. The Authority shall, through moneys derived from sources other than state funds, to the extent such moneys are available, operate in cooperation with the National Oceanic and Atmospheric Administration to upgrade wind resource and other metocean assessment equipment at Chesapeake Light Tower and other structures.

B. The Authority may establish public-private partnerships with a developer pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) for the installation and operation of wind resource and other metocean equipment, including light detection and ranging equipment, meteorological measurement towers, and data collection platforms. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developers shall share the costs of the upgrade;
2. The developer, in coordination with the Authority and relevant state and federal agencies, shall operate any meteorological measurement towers and data collection platforms; and
3. The developer shall make all collected data available to the Authority.

C. The Authority may establish public-private partnerships with a developer pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) for the collection of avian and marine environmental data. Any partnership established pursuant to this subsection shall stipulate that:

1. The Authority and the developer shall share the costs of data collection;
2. The developer, in coordination with the Authority and relevant state and federal agencies, shall manage the environmental data collection process; and
3. The developer shall make all collected data available to the Authority.

D. The Authority may make any data collected pursuant to this section available to the public.

2010, cc. [507](#), [681](#).

**§ 67-1204. (Repealed effective October 1, 2021) Port facilities upgrades.**

The Authority may establish public-private partnerships with entities pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) for the upgrade of port facilities and other logistical equipment and sites to accommodate the manufacturing and assembly of offshore wind energy project components and vessels that will support the construction and operations of offshore wind energy projects. Any partnership established pursuant to this subsection shall stipulate that the Authority and the entities shall share the costs of the upgrade.

2010, cc. [507](#), [681](#).

**§ 67-1205. (Repealed effective October 1, 2021) Federal loan guarantees.**

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. 111-5, or other similar federal legislation, to facilitate the development of offshore wind energy projects.

B. Upon obtaining federal loan guarantees for offshore wind energy projects pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate.

Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) pursuant to subdivision B 4 of § [2.2-4002](#). Decisions of the Authority shall be final and not subject to review or appeal.

2010, cc. [507](#), [681](#).

**§ 67-1206. (Repealed effective October 1, 2021) Transmission of power from offshore wind energy projects.**

A. The incumbent, investor-owned utility for the onshore service territory adjacent to any offshore wind generation project shall, at the request of the Department of Mines, Minerals and Energy, initiate a transmission study. Such utility shall initiate the transmission study no more than 30 days following the request of the Department of Mines, Minerals and Energy, and shall report to the Department of Mines, Minerals and Energy within 180 days of the request. The Department of Mines, Minerals and Energy shall report the results of the study to the Authority. The Department of Mines, Minerals and Energy shall request the study no later than July 31, 2010.

B. Upon receipt of the study, but no later than May 31, 2011, the Authority shall recommend such actions as it deems appropriate to facilitate transmission of power from offshore wind energy projects.

2010, cc. [507](#), [681](#).

**§ 67-1207. (Repealed effective October 1, 2021) Powers and duties of the Authority.**

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary, and fix their compensation to be payable from funds made available to the Authority;
7. Invest its funds as permitted by applicable law;
8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;
9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;
10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;
11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the offshore wind energy industry, including facilitating any permitting processes; and
12. Enter into interstate partnerships to develop the offshore wind energy industry and offshore wind energy projects.

2010, cc. [507](#), [681](#).

**§ 67-1208. (Repealed effective October 1, 2021) Director; staff; counsel to the Authority.**

A. The Director of the Department of Mines, Minerals and Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Division of Offshore Wind within the Department of Mines, Minerals and Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2010, cc. [507](#), [681](#); 2020, c. [794](#).

**§ 67-1209. (Repealed effective October 1, 2021) Annual report.**

On or before October 15 of each year, the Authority shall submit an annual summary of its activities and recommendations to the Governor and the Chairs of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Labor and Commerce, and the Senate Committee on Commerce and Labor. Such report may include the submission of the Division of Offshore Wind within the Department of Mines, Minerals and Energy required by § [45.1-161.5:1](#).

2010, cc. [507](#), [681](#); 2020, c. [794](#).

**§ 67-1210. (Repealed effective October 1, 2021) Confidentiality of information.**

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of offshore wind energy projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

2010, cc. [507](#), [681](#).

**§ 67-1211. (Repealed effective October 1, 2021) Declaration of public purpose; exemption from taxation.**

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.

B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.

2010, cc. [507](#), [681](#).

## **Chapter 13 - Voluntary Solar Resource Development Fund**

**§ 67-1300. through 67-1305.**

Expired.

## **Chapter 14 - Virginia Nuclear Energy Consortium**

**§ 67-1400. (Repealed effective October 1, 2021) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Nuclear Energy Consortium Authority established pursuant to this chapter.

"Board" means the board of directors of the Authority.

"Consortium" means the nonstock, nonprofit corporation established by the Authority pursuant to § [67-1404](#).

"Member" means a member of the Consortium.

2013, cc. [57](#), [394](#).

**§ 67-1401. (Repealed effective October 1, 2021) Virginia Nuclear Energy Consortium Authority established.**

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the Virginia Nuclear Energy Consortium Authority (the Authority). The Authority's exercise of powers conferred by this chapter shall be deemed to be the performance of an essential governmental function and matters of public necessity for which public moneys may be spent and private property acquired.

2013, cc. [57](#), [394](#).

**§ 67-1402. (Repealed effective October 1, 2021) Purposes; powers of Authority.**

A. The Authority is established for the purposes of making the Commonwealth a national and global leader in nuclear energy and serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues.

B. The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights, powers, and duties to:

1. Adopt, use, and alter at will a corporate seal;
2. Acquire, purchase, hold, use, lease, or otherwise dispose of property, real, personal, or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority;
3. Adopt bylaws for the management and regulation of its affairs;
4. Develop and adopt a strategic plan for carrying out the purposes set out in this chapter;
5. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this chapter, including agreements with any person or federal agency;
6. Consult with the General Assembly; federal, state, and local agencies; nonprofit organizations; private industry; and other potential developers and users of nuclear energy;
7. Promote and facilitate agreements among public and private institutions of higher education in the Commonwealth and other research entities to carry out research projects relating to nuclear energy;

8. Disseminate information and research results;
9. Identify and support, in cooperation with Virginia's nuclear entities and the public and private sectors, the development of education programs related to Virginia's nuclear industry;
10. Provide for the establishment of the Consortium by the Board as provided in § [67-1404](#);
11. Develop a policy regarding any interest in intellectual property that may be acquired or developed by the Consortium;
12. In order to fund and support the activities of the Authority and the Consortium, apply for, solicit, and accept from any source, including any agency of the federal government, the Commonwealth, or any other state, any municipality, county, or other political subdivision thereof, any member, or any private corporation or other entity, (i) grants, including grants made available pursuant to federal legislation, (ii) aid, or (iii) contributions of money, property, or other things of value, which shall be held, used, and applied for the purposes set out by this chapter;
13. Facilitate the collaboration of members toward the attainment of grants and the expenditure of funds in accomplishing the purposes set out by this chapter;
14. Encourage, facilitate, and support the application, commercialization, and transfer of new nuclear energy technologies;
15. Provide public information and communication about nuclear energy and related educational and job opportunities;
16. Provide advice, assistance, and services to institutions of higher education and to other persons providing services or facilities for nuclear research or graduate education;
17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's public institutions of higher education, private companies, federal laboratories, and not-for-profit organizations to accomplish the purposes set out by this chapter; and
18. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

2013, cc. [57](#), [394](#).

**§ 67-1403. (Repealed effective October 1, 2021) Board of the Authority.**

A. The Authority shall be governed by a board of directors consisting of 17 members appointed as follows:

1. The Director of the Department of Mines, Minerals and Energy or his designee;
2. The President and Chief Executive Officer of the Virginia Economic Development Partnership or his designee;
3. The Chancellor of the Virginia Community College System or his designee;
4. The President of Virginia Commonwealth University or his designee;
5. The President of the University of Virginia or his designee;



6. The President of Virginia Polytechnic Institute and State University or his designee;
7. The President of George Mason University or his designee;
8. Two individuals to represent an institution of higher education in the Commonwealth not already represented on the Board, at least one of which shall be a private institution of higher education;
9. Six individuals, each to represent a single business entity located in the Commonwealth that is engaged in activities directly related to the nuclear energy industry;
10. One individual to represent a nuclear energy-related nonprofit organization; and
11. One individual to represent a Virginia-based federal research laboratory.

B. The members of the Board described in subdivisions A 1 through A 7 shall serve terms coincident with their terms of office.

C. The 10 members of the Board described in subdivisions A 8 through A 11 shall be appointed by the Governor. The original terms of five of such members shall end on June 30, 2015, and the original term of the five other such members shall end on June 30, 2017, all as designated by the Governor. After the initial staggering of terms, such members shall be appointed for terms of four years. Vacancies in the membership of the Board shall be filled in the same manner as the original appointments for the unexpired portion of the term. Members of the Board described in subdivisions A 8 through A 11 may serve two successive terms on the Board.

D. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy.

E. Meetings of the Board shall be held at the call of the chairman or of any seven members. Nine members of the Board shall constitute a quorum for the transaction of the business of the Authority. An act of the majority of the members of the Board present at any regular or special meeting at which a quorum is present shall be an act of the Board.

F. Immediately after appointment, the members of the Board shall enter upon the performance of their duties.

G. The Board shall annually elect from among its members a chairman, a vice-chairman, and a treasurer. The Board shall also elect annually a secretary, who need not be a member of the Board, and may also elect such other subordinate officers who need not be members of the Board, as it deems proper. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings.

H. Notwithstanding the provisions of any other law, no officer or employee of the Commonwealth shall be deemed to have forfeited or shall have forfeited his or her office or employment by reason of acceptance of membership on the Board or by providing service to the Authority or to the Consortium.

I. On or before November 15 of each year, the Authority shall submit its updated strategic plan, an annual summary of its activities, and recommendations for the support and expansion of the nuclear energy industry in Virginia to the Governor and the Chairmen of the House Committees on Appropriations and on Labor and Commerce, and the Chairmen of the Senate Committees on Finance and Appropriations and on Commerce and Labor.

2013, cc. [57](#), [394](#).

**§ 67-1404. (Repealed effective October 1, 2021) Establishment of the Consortium.**

A. The Board shall provide for the formation, by January 1, 2014, of a nonstock corporation under Chapter 10 (§ [13.1-801](#) et seq.) of Title 13.1, not organized for profit, which corporation shall include in its name the words "Virginia Nuclear Energy Consortium," or some variation thereof that is approved by the Board.

B. The Consortium shall be established for the purpose of conducting activities useful in (i) making the Commonwealth a leader in nuclear energy; (ii) serving as an interdisciplinary study, research, and information resource for the Commonwealth on nuclear energy issues; and (iii) carrying out the provisions of this chapter, including raising money on behalf of the Authority in the corporate and non-profit community and from other nonstate sources.

C. The membership of the Consortium shall be open to:

1. Public or private institutions of higher education in the Commonwealth;
2. Virginia-based federal research laboratories;
3. Nuclear energy-related nonprofit organizations;
4. Business entities with operating facilities located in the Commonwealth that are engaged in activities directly related to the nuclear energy industry; and
5. Other individuals or entities whose membership is approved by the board of directors of the Consortium through a process established by the bylaws of the Consortium.

D. The board of directors of the Consortium shall consist of members selected and approved by the Consortium pursuant to a process established by its bylaws.

E. The board of directors of the Consortium shall appoint an executive director to serve as the principal administrative officer of the Consortium. The executive director shall carry out the specific duties assigned to him by the board of directors, develop appropriate policies and procedures for the operation of the Consortium; employ such persons and secure such services as may be required to carry out the purposes of the Consortium; expend funds as authorized by the Authority; and accept moneys from federal or private sources on behalf of the Authority, including moneys contributed by Consortium members to the Authority, for cost-sharing on nuclear energy research or projects. The executive director and any other employee of the Consortium (i) shall be compensated in the manner provided by the board of directors of the Authority, (ii) shall not be subject to the provisions of the Virginia

Personnel Act (§ [2.2-2900](#) et seq.), and (iii) shall not be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq.).

F. The articles of incorporation of the Consortium shall provide that upon dissolution the net assets of the Consortium shall be transferred to the Authority.

G. The Consortium shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapters 8 (§ [2.2-800](#) et seq.), 18 (§ [2.2-1800](#) et seq.), 24 (§ [2.2-2400](#) et seq.), 29 (§ [2.2-2900](#) et seq.), 31 (§ [2.2-3100](#) et seq.), 37 (§ [2.2-3700](#) et seq.), 38 (§ [2.2-3800](#) et seq.), 43 (§ [2.2-4300](#) et seq.), 44 (§ [2.2-4400](#) et seq.), 45 (§ [2.2-4500](#) et seq.), 46 (§ [2.2-4600](#) et seq.), and 47 (§ [2.2-4700](#) et seq.) of Title 2.2, Chapter 14 (§ [30-130](#) et seq.) of Title 30, or Chapter 1 (§ [51.1-124.1](#) et seq.) of Title 51.1.

H. The board of directors of the Consortium shall adopt, alter, and repeal bylaws governing the manner in which its business shall be transacted and the manner in which the activities of the Consortium shall be conducted.

I. The Consortium shall report on all of its non-proprietary activities at least twice a year to the Authority.

2013, cc. [57](#), [394](#).

#### **§ 67-1405. (Repealed effective October 1, 2021) Moneys of Authority.**

All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies are authorized to give such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of such persons as the Authority may authorize to execute such warrants or orders.

2013, cc. [57](#), [394](#).

#### **§ 67-1406. (Repealed effective October 1, 2021) Audits; external reviews.**

A. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the financial accounts of the Authority. The audit report and any nonproprietary information provided to the auditor in connection with the audit shall be made available to the public, upon request, in accordance with the provisions of the Freedom of Information Act (§ [2.2-3700](#) et seq.).

B. The Authority, if it receives state funds, shall be subject to periodic external review either (i) under the provisions of the Legislative Program Review and Evaluation Act (§ [30-64](#) et seq.) or (ii) by an entity appointed for that purpose by the Governor.

2013, cc. [57](#), [394](#).

## **Chapter 15 - Virginia Solar Energy Development and Energy Storage Authority**

#### **§ 67-1500. (Repealed effective October 1, 2021) Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Authority" means the Virginia Solar Energy Development and Energy Storage Authority created pursuant to this chapter.

"Developer" means any private developer of a solar energy project or an energy storage project.

"Energy storage project" means an energy storage facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

"Solar energy project" means an electric generation facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

2015, cc. [90](#), [398](#); 2017, c. [813](#).

**§ 67-1501. (Repealed effective October 1, 2021) Authority created; purpose.**

The Virginia Solar Energy Development Authority is continued as the Virginia Solar Energy Development and Energy Storage Authority. The Authority constitutes a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of (i) facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the solar energy and energy storage industries and solar energy and energy storage projects by developing programs that increase the availability of financing for solar energy projects and energy storage projects; (ii) facilitating the increase of solar energy generation systems and energy storage projects on public and private sector facilities in the Commonwealth; (iii) promoting the growth of the Virginia solar and energy storage industries; (iv) providing a hub for collaboration between entities, both public and private, to partner on solar energy projects and energy storage projects; and (v) positioning the Commonwealth as a leader in research, development, commercialization, manufacturing, and deployment of energy storage technology. The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.

2015, cc. [90](#), [398](#); 2017, c. [813](#).

**§ 67-1502. (Repealed effective October 1, 2021) Membership; terms; vacancies; expenses.**

A. The Authority shall be composed of 15 nonlegislative citizen members appointed as follows: Eight members shall be appointed by the Governor; four members shall be appointed by the Speaker of the House of Delegates; and three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth. Members may include representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar customers, institutions of higher education who have expertise in energy technology, and solar research academics.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an

initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members by the Governor made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: two members shall be appointed for terms of four years, two members shall be appointed for terms of three years, and two members shall be appointed for terms of two years. The initial appointments of members by the Speaker of the House of Delegates made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, and one member shall be appointed for a term of two years. The initial appointments of members by the Senate Committee on Rules made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015 shall be as follows: one member shall be appointed for a term of four years, and one member shall be appointed for a term of three years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ [2.2-2813](#) and [2.2-2825](#). Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ [2.2-3100](#) et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

2015, cc. [90](#), [398](#); 2017, c. [813](#).

#### **§ 67-1503. (Repealed effective October 1, 2021) Partnerships.**

A. The Authority may establish public-private partnerships with entities pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (§ [56-575.1](#) et seq.) to increase the number of solar energy generation systems on or located adjacent to public and private facilities in the Commonwealth. Any partnership established pursuant to this section shall stipulate that the Authority and

the developers shall share the costs of the installation and operation of solar energy facilities and equipment.

B. The Authority may provide a central hub for appropriate entities, both public and private, to enter into partnerships that result in solar energy generation projects being developed in the Commonwealth. The Authority may act as a good faith broker in these matters to facilitate appropriate partnerships, including public-private partnerships.

2015, cc. [90](#), [398](#).

**§ 67-1504. (Repealed effective October 1, 2021) Federal loan guarantees.**

A. The Authority, on behalf of the Commonwealth, may apply to the U.S. Department of Energy for federal loan guarantees authorized or made available pursuant to Title XVII of the Energy Policy Act of 2005, 42 U.S.C. § 16511 et seq., the American Recovery and Reinvestment Act of 2009, P.L. [111-5](#), or other similar federal legislation, to facilitate the development of solar energy projects.

B. Upon obtaining federal loan guarantees for solar energy projects pursuant to subsection A, the Authority, subject to any restrictions imposed by federal law, may allocate or assign all or portions thereof to qualified third parties, on such terms and conditions as the Authority finds are appropriate. Actions of the Authority relating to the allocation and assignment of such loan guarantees shall be exempt from the provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) pursuant to subdivision B 4 of § [2.2-4002](#). Decisions of the Authority shall be final and not subject to review or appeal.

2015, cc. [90](#), [398](#).

**§ 67-1505. (Repealed effective October 1, 2021) Powers and duties of the Authority.**

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds made available to the Authority;
7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;
9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;
10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;
11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the solar energy and energy storage industries, including facilitating any permitting processes;
12. Enter into interstate partnerships to develop the solar energy industry, solar energy projects, and energy storage projects;
13. Collaborate with entities, including institutions of higher education, to increase the training and development of the workforce needed by the solar and energy storage industries in the Commonwealth, including industry-recognized credentials and certifications;
14. Conduct any other activities as may seem appropriate to increase solar energy generation in the Commonwealth and the associated jobs and economic development and competitiveness benefits, including assisting investor-owned utilities in the planned deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020 through entering into agreements in its discretion in any manner provided by law for the purpose of planning and providing for the financing or assisting in the financing of the construction or purchase of such solar energy projects authorized pursuant to [§ 56-585.1](#);
15. Promote collaborative efforts among Virginia's public and private institutions of higher education in research, development, and commercialization efforts related to energy storage;
16. Monitor relevant developments in energy storage technology and deployment nationally and globally and disseminate relevant information and research results; and
17. Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to the development and commercialization of energy storage.

2015, cc. [90](#), [398](#); 2017, c. [813](#).

**§ 67-1506. (Repealed effective October 1, 2021) Director; staff; counsel to the Authority.**

A. The Director of the Department of Mines, Minerals and Energy shall serve as Director of the Authority and shall administer the affairs and business of the Authority in accordance with the provisions of this chapter and subject to the policies, control, and direction of the Authority. The Director may obtain non-state-funded support to carry out any duties assigned to the Director. Funding for this support may be provided by any source, public or private, for the purposes for which the Authority is created. The Director shall maintain, and be custodian of, all books, documents, and papers of or filed with the Authority. The Director may cause copies to be made of all minutes and other records and documents of the Authority and may give certificates under seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely on such certificates. The Director also shall perform such other duties as prescribed by the Authority in carrying out the purposes of this chapter.

B. The Department of Mines, Minerals and Energy shall serve as staff to the Authority.

C. The Office of the Attorney General shall provide counsel to the Authority.

2015, cc. [90](#), [398](#).

**§ 67-1507. (Repealed effective October 1, 2021) Annual report.**

On or before October 15 of each year, beginning in 2016, the Authority shall submit an annual summary of its activities and recommendations to the Governor and Chairmen of the House Committees on Appropriations and on Labor and Commerce, and the Chairmen of the Senate Committees on Finance and Appropriations and on Commerce and Labor.

2015, cc. [90](#), [398](#).

**§ 67-1508. (Repealed effective October 1, 2021) Confidentiality of information.**

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of solar energy projects and energy storage projects.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

2015, cc. [90](#), [398](#); 2017, c. [813](#).

**§ 67-1509. (Repealed effective October 1, 2021) Declaration of public purpose; exemption from taxation.**

A. The exercise of the powers granted by this chapter shall be in all respects for the benefit of the citizens of the Commonwealth and for the promotion of their welfare, convenience, and prosperity.



B. The Authority shall be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the property of the Authority and its income and operations shall be exempt from taxation or assessments upon any property acquired or used by the Authority under the provisions of this chapter.

2015, cc. [90](#), [398](#).