

HOUSE BILL NO. 903

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Commerce and Energy

on _____)

(Patron Prior to Substitute--Delegate Lopez)

A BILL to amend the Code of Virginia by adding in Title 45.2 a chapter numbered 22, consisting of sections numbered 45.2-2200 through 45.2-2206, relating to Virginia Green Infrastructure Bank; created.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 45.2 a chapter numbered 22, consisting of sections numbered 45.2-2200 through 45.2-2206, as follows:

CHAPTER 22.

VIRGINIA GREEN INFRASTRUCTURE BANK.

§ 45.2-2200. Virginia Green Infrastructure Bank.

A. There is hereby created as an independent authority for public benefit the Virginia Green Infrastructure Bank.

B. The Bank shall further the public interest by:

1. Maximizing reductions in greenhouse gas emissions;

2. Promoting investments in qualified projects;

3. Increasing significantly the pace and amount of investment in qualified projects at the state and local level by catalyzing and mobilizing private capital through public and philanthropic investment and other financial products designed to reduce the asset risk to private investors;

4. Improving the standard of living of low-income and moderate-income residents of the Commonwealth by promoting more efficient and lower-cost development of qualified projects;

5. Enabling climate-impacted communities to benefit from and afford projects and investments that reduce emissions;

- 27 6. Providing financing for qualified projects that will create high-paying, long-term jobs;
- 28 7. Fostering the development and consistent application of transparent underwriting standards,
- 29 standard contractual terms, and measurement and verification protocols for qualified projects;
- 30 8. Achieving a level of financing support for qualified projects necessary to help abate climate
- 31 change;
- 32 9. Conducting low-cost procurements in the Commonwealth that will lower greenhouse gas
- 33 emissions;
- 34 10. Mitigating climate change, adapting to the impacts resulting from climate change, and
- 35 implementing climate resiliency measures;
- 36 11. Prioritizing environmental justice for climate-impacted communities; and
- 37 12. Receiving and implementing funding and resources, now and in the future, to improve zero-
- 38 emissions and low-emissions energy infrastructure in the Commonwealth and to support the other
- 39 purposes set forth in this subsection.

40 **§ 45.2-2201. Definitions.**

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

42 "Accelerator" means the Clean Energy and Sustainability Accelerator established pursuant to

43 federal law.

44 "Alternative fuel vehicle project" means any project, technology, product, service, function, or

45 measure, or an aggregation thereof, that supports the development and deployment of alternative fuels

46 used for electricity generation, alternative fuel vehicles, and related infrastructure, including infrastructure

47 for electric vehicle charging stations. "Alternative fuel vehicle project" shall not include any technology

48 that involves the combustion of fossil fuels, including petroleum and petroleum products.

49 "Board" means the Board of Directors of the Virginia Green Infrastructure Bank.

50 "Cash for Carbon Program" means any project or program using market mechanisms to expedite

51 the retirement of carbon-intensive power generation facilities, such as coal-fired power generation

52 facilities; acquire carbon assets for the purposes of reducing emissions; and invest in communities

53 negatively affected by the loss of those facilities or assets, including market mechanisms such as (i) reverse

54 auctions; (ii) securitization; (iii) the offering of bidder's credits to facilities that pose significant
55 environmental justice or health concerns, particularly in low-income, minority, and distressed
56 neighborhoods; and (iv) the provision of investment and technical assistance to the local community and
57 site of a facility, including, where necessary, in cooperation with the Administrator of the federal
58 Environmental Protection Agency or any other federal, state, or local authorities.

59 "Clean agriculture project" means an agriculture project that reduces net greenhouse gas emissions
60 or improves climate resiliency, including reforestation, afforestation, forestry management, and
61 regenerative agriculture.

62 "Climate impacted communities" means (i) communities of color, which includes any
63 geographically distinct area in which the population of color is higher than the average population of color
64 in the Commonwealth; (ii) communities that are already or are likely to be the first communities to feel
65 the direct negative impacts of climate change; (iii) distressed neighborhoods, demonstrated by indicators
66 of need including poverty; childhood obesity; academic failure; and juvenile delinquency, adjudication,
67 or incarceration rates; (iv) low-income communities, defined as any census block group in which 30
68 percent or more of the population are low-income individuals; (v) low-income households, defined as a
69 household with an annual income equal to or less than the greater of 80 percent of the median income in
70 the area in which the household is located as reported by the U.S. Department of Housing and Urban
71 Development or 200 percent of the federal poverty rate; and (vi) rural areas, which includes any area other
72 than a city or town with a population greater than 50,000 or an urbanized area adjacent to such a city or
73 town.

74 "Climate-resilient infrastructure" means any project that builds or enhances infrastructure so that
75 such infrastructure is planned, designed, and operated in a manner that anticipates, prepares for, and adopts
76 to changing climate conditions and can withstand, respond to, and recover rapidly from disruptions caused
77 by changing climate conditions.

78 "Demand response project" means any project, technology, product, service, function, or measure,
79 or an aggregation thereof, that changes the usage of electricity by retail customers in the Commonwealth
80 from normal consumption patterns in response to (i) changes in the price of electricity or (ii) incentive

81 payments designed to lower electricity use at times of high market prices or when system reliability is
82 jeopardized.

83 "Electrification" means the installation, construction, or use of end-use electric technology that
84 replaces existing fossil fuel-based technology.

85 "Energy efficient project" means any project, technology, product, service, function, or measure
86 that (i) results in the reduction of energy use required to achieve the same level of service or output
87 obtained before the application of such project, technology, product, service, function, or measure or (ii)
88 substantially reduces greenhouse gas emissions relative to emissions that would have been produced
89 before the application of such project, technology, product, service, function, or measure. "Energy
90 efficient project" shall not include any project relating to power generation facilities that involve the
91 combustion of fossil fuels, including petroleum or petroleum products.

92 "Procurement" means the purchase, lease, or acquisition of real or personal property on a bid,
93 negotiated, or open market basis, including through a sole-source procurement or in such other manner as
94 the Board or president determines to be appropriate and in the best interest of advancing the purposes of
95 this chapter.

96 "Qualified clean energy project" means any alternative fuel vehicle project, demand response
97 project, electrification project, energy efficiency project, renewable energy project, Cash for Carbon
98 Program, or system efficiency project.

99 "Qualified project" means any qualified clean energy project, climate-resilient infrastructure,
100 climate change mitigation or adaptation project, or any other project identified by the Board as consistent
101 with the purposes of this chapter.

102 "Renewable energy" mean energy produced by solar resources, wind resources, geothermal
103 resources, nonhazardous organic biomass, anaerobic digestion of organic waste streams, hydropower, fuel
104 cells using renewable resources, and any other source that naturally replenishes over a human, rather than
105 a geological, time frame and that is ultimately derived from solar, wind, or water resources.

106 "Renewable energy project" means the development, construction, deployment, alteration, or
107 repair of any project, technology, product, service, function, or measure that generates electric power from
108 renewable energy.

109 "System efficiency project" means the development, construction, deployment, alteration, or repair
110 of any distributed generation system, energy storage system, smart grid technology, advanced battery
111 system, microgrid system, fuel cell system, or combined heat and power system.

112 "Virginia Green Infrastructure Bank" or "Bank" means the nonstock corporation established
113 pursuant to this chapter that provides money to promote investments in and significantly increase the pace
114 and amount of investment in qualified projects in the Commonwealth and to carry out the provisions of
115 this chapter.

116 **§ 45.2-2202. Board of directors; members; president.**

117 A. The Bank shall be governed by a board of directors consisting of nine voting members as
118 follows: (i) six nonlegislative citizen members appointed by the Governor, subject to approval by the
119 General Assembly, who shall have expertise in real estate, finance, or project development, or legal
120 expertise in zero-emissions and low-emissions energy generation, infrastructure, transportation,
121 agriculture, stormwater management, housing, or environmental justice; (ii) the Director of the
122 Department or his designee, who shall serve ex officio with voting privileges; (iii) the Director of the
123 Virginia Economic Development Partnership Authority or his designee, who shall serve ex officio with
124 voting privileges; and (iv) the State Treasurer, or his designee, who shall serve ex officio with voting
125 privileges.

126 B. In appointing nonlegislative citizen members, the Governor shall consider whether the
127 appointments reflect the gender, ethnic, and geographical diversity of the Commonwealth and whether the
128 Board provides representation to climate-impacted communities.

129 C. 1. After an initial staggering of terms, members of the Board shall serve terms of three years.
130 No member shall be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for
131 the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms.
132 Nonlegislative citizen members shall be citizens of the Commonwealth.

133 2. Ex officio members shall serve terms coincident with their terms of office.

134 D. Members of the Board shall receive such compensation for the performance of their duties as
135 provided in § 2.2-2813. Members shall be reimbursed for all reasonable and necessary expenses incurred
136 in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of
137 compensation and expenses of the members shall be provided by the Bank.

138 E. The Board shall annually elect a chairman and vice-chairman from the nonlegislative citizen
139 members of the Board. A majority of the members shall constitute a quorum for the transaction of the
140 Board's business, and no vacancy in the membership shall impair the right of a quorum to exercise the
141 rights and perform all duties of the Board. The Board shall meet at least quarterly or at the call of the
142 chairman.

143 F. The Board shall appoint a president of the Bank, who shall not be a member of the Board, and
144 who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by
145 the Board.

146 **§ 45.2-2203. Powers and duties of the president.**

147 The president shall employ or retain such agents or employees subordinate to the president as may
148 be necessary to fulfill the duties of the Bank conferred upon the president, subject to the Board's approval.
149 Employees of the Bank shall be eligible for membership in the Virginia Retirement System and
150 participation in all of the health and related insurance and other benefits, including premium conversion
151 and flexible benefits, available to state employees as provided by law. The president shall also exercise
152 such of the powers and duties conferred upon the Bank as may be delegated to him by the Board, including
153 powers and duties involving the exercise of discretion. The president shall also exercise and perform such
154 other powers and duties as may be lawfully delegated to him or as may be conferred or imposed upon him
155 by law.

156 **§ 45.2-2204. Powers and duties of the Bank.**

157 A. The Bank is granted all powers necessary or convenient for the carrying out of its statutory
158 purposes, including the power to:

159 1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;

- 160 2. Adopt, use, and alter at will a common seal;
- 161 3. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal, or
- 162 mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes
- 163 of the Bank, and to lease as lessee, any property, real, personal, or mixed, tangible or intangible, or any
- 164 interest therein, at such annual rental and on such terms and conditions as may be determined by the Board
- 165 and to lease as lessor to any person, any property, real, personal, or mixed, tangible or intangible, or any
- 166 interest therein, at any time acquired by the Bank, whether wholly or partially completed, at such annual
- 167 rental and on such terms and conditions as may be determined by the Board and to sell, transfer, or convey
- 168 any property, real, personal, or mixed, tangible or intangible, or any interest therein, at any time acquired
- 169 or held by the Bank on such terms and conditions as may be determined by the Board, provided that the
- 170 terms of any conveyance or lease of real property shall be subject to the prior written approval of the
- 171 Governor;
- 172 4. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of,
- 173 the sale of products of, or services rendered by the Bank at rates to be determined by it for the purpose of
- 174 providing for the payment of the expenses of the Bank;
- 175 5. Make and enter into all contracts and agreements necessary or incidental to the performance of
- 176 its duties, the furtherance of its purposes, and the execution of its powers under this chapter, including
- 177 agreements with any person or federal agency;
- 178 6. Employ, at its discretion, consultants, researchers, attorneys, architects, engineers, accountants,
- 179 financial experts, investment bankers, superintendents, managers, and such other employees and agents
- 180 as may be necessary, and to fix their compensation to be payable from funds made available to the Bank.
- 181 The Bank may hire employees within and without the Commonwealth and the United States without
- 182 regard to whether such employees are citizens of the Commonwealth. Legal services for the Bank shall
- 183 be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
- 184 7. Receive and accept from any federal or private agency, foundation, corporation, association, or
- 185 person, grants or other aid to be expended in accomplishing the objectives of the Bank, and receive and
- 186 accept from the Commonwealth or any state, and any municipality, county, or other political subdivision

187 thereof, or from any other source, aid or contributions of either money, property, or other things of value,
188 to be held, used, and applied only for the purposes for which such grants and contributions may be made.
189 All federal moneys accepted under this section shall be accepted and expended by the Bank upon such
190 terms and conditions as are prescribed by the United States and as are consistent with state law; and all
191 state moneys accepted under this section shall be expended by the Bank upon such terms and conditions
192 as are prescribed by the Commonwealth;

193 8. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its
194 business shall be transacted and the manner in which the powers of the Bank shall be exercised and its
195 duties performed;

196 9. Do all acts and things necessary or convenient to carry out the powers granted to it by law, and
197 perform any act or carry out any function not inconsistent with state law that may be useful in carrying
198 out the provisions of this chapter; and

199 10. Seek to qualify as a community development financial institution under 12 U.S.C. § 4702.

200 B. In carrying out its powers and duties pursuant to this chapter, the Bank shall:

201 1. Ensure that within three years of the creation of the Bank, and for the life of the Bank,
202 investments are made on a portfolio basis such that returns are sufficient to cover ongoing portfolio losses
203 and operating expenses such that the Bank is self-sustainable, with the exception of any specific funds or
204 mandates provided to the Bank where it may invest without a high certainty or requirement of return;

205 2. Leverage private investment in qualified projects through financing mechanisms that support,
206 enhance, and complement private investment;

207 3. Report to the General Assembly on an annual basis;

208 4. Ensure that the Bank is audited annually in accordance with generally accepted auditing
209 standards by an independent certified accountant;

210 5. Ensure that the Bank maximizes the reduction of emissions in the Commonwealth for every
211 dollar deployed by the bank;

212 6. Direct 20 percent of its investment activity to serve climate-impacted communities;

- 213 7. Prioritize qualified projects according to benefits conferred on consumers and climate-impacted
214 communities;
- 215 8. Comply with requirements of the federal Truth in Lending Act (15 U.S.C. § 1601 et seq.);
- 216 9. Require that laborers and mechanics employed by contractors and subcontractors in construction
217 work financed directly by the Accelerator will be paid wages not less than those prevailing on similar
218 construction in the locality, as determined by the U.S. Secretary of Labor;
- 219 10. Require that qualified projects financed directly by the Accelerator with total capital costs of
220 \$1 million or greater utilize a project labor agreement;
- 221 11. Annually develop and adopt a work program to serve and support the deployment of qualified
222 projects in the Commonwealth, including projects benefiting climate-impacted communities; single-
223 family and multifamily residential property; commercial, industrial, educational, and governmental
224 property; hospitals; and nonprofit property, and any other projects that advance the purpose of this chapter;
- 225 12. Develop rules, policies, and procedures that specify the eligibility of borrowers and other terms
226 and conditions of the financial support to be provided by the Bank before financing support is provided
227 for any qualified project;
- 228 13. Develop and offer a range of financing structures, forms, and techniques for qualified projects,
229 including loans, bonds, credit enhancements, guarantees, warehousing, securitization, co-investing, and
230 other financial products and structures;
- 231 14. Develop consumer protection standards to be enforced on all investments to ensure the Bank
232 and its partners are lending in a responsible and transparent manner that is in the financial interests of the
233 borrowers;
- 234 15. Assess reasonable fees for the financing support and risk management activities provided by
235 the Bank in amounts sufficient to cover the reasonable costs of the Bank;
- 236 16. Collect and make available to the public in a centralized database on a website maintained by
237 the Bank information regarding rates, terms, and conditions of all financing support transactions, unless
238 the disclosure of such information includes a trade secret, confidential commercial information, or
239 confidential financial information;

240 17. Prepare a quarterly report for the public on the financing activities of the Bank that specifies
241 the investments made in climate-impacted communities as required by this section;

242 18. Work with market and program participants to provide information regarding best practices
243 for overseeing qualified projects and information regarding other appropriate consumer protections; and

244 19. Undertake such other activities as are necessary to carry out the provisions of this chapter.

245 **§ 45.2-2205. Nonstock corporation to assist economic development.**

246 The Board may establish nonprofit, nonstock corporations under Chapter 10 (§ 13.1-801 et seq.)
247 of Title 13.1 as public instrumentalities exercising public and essential governmental functions, to assist
248 the Board and the Bank in fulfilling the purposes of this chapter.

249 The board of directors of any such corporation shall be composed of the president of the Bank and
250 the members of the Board.

251 The Board shall require any such corporation to report to it at least annually on its activities.

252 **§ 45.2-2206. Capitalization.**

253 The Bank shall initially be capitalized by gifts, grants, donations, and appropriations. Of the initial
254 capitalization, 25 percent may be used for operational and start-up expenses and the remaining amount
255 shall be used solely as investment capital for qualified projects financed by the Bank. The Board shall
256 identify other sources of money that may, in the opinion of the Board, be used to fund the Bank.

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