

SENATE BILL NO. 1166

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on February 2, 2023)

(Patron Prior to Substitute--Senator Surovell)

A BILL to amend and reenact §§ 30-202 through 30-206, 30-209, 45.2-1711, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia, relating to energy planning and electric utility oversight; Commission on Electricity Utility Regulation; membership, meetings, powers and duties, and staffing; Virginia Energy Plan; public presentation of plan draft; electric utilities; integrated resource plans; stakeholder groups and public outreach required.

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

**1. That §§ 30-202 through 30-206, 30-209, 45.2-1711, 45.2-1712, 45.2-1713, and 56-599 of the Code of Virginia are amended and as follows:**

**§ 30-202. (Expires July 1, 2024) Membership; terms.**

The Commission shall consist of ~~10 legislative~~ 13 members that include 10 legislative members and three nonlegislative citizen members. Members shall be appointed as follows: four members of the Senate to be appointed by the Senate Committee on Rules ~~and~~ that consist of three members from the majority party and one member from the minority party or an equal number from each in the event the chamber is evenly divided; six members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one nonlegislative citizen member with expertise in economic development to be appointed by the Senate Committee on Rules; one nonlegislative citizen member with expertise in energy affordability to be appointed by the Speaker of the House of Delegates; and one nonlegislative citizen member with expertise in public utility regulation to be appointed by the Governor. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Any member of the

26 Commission appointed on or after July 1, 2023, shall complete within 90 days of his appointment an  
27 orientation on electric utility regulation provided by the State Corporation Commission.

28 ~~Members~~ Legislative members of the Commission shall serve terms coincident with their terms of  
29 office. Nonlegislative citizen members shall be appointed for a term of two years. All members may be  
30 reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the  
31 unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

32 The Commission shall elect a chairman and vice-chairman from among its membership, who shall  
33 be members of the General Assembly. The chairman of the Commission shall be authorized to designate  
34 one or more members of the Commission to observe and participate in the discussions of any work group  
35 convened by the State Corporation Commission in furtherance of its duties under the Virginia Electric  
36 Utility Regulation Act (§ 56-576 et seq.) and this chapter. Members participating in such discussions shall  
37 be entitled to compensation and reimbursement provided in § 30-204, if approved by the Joint Rules  
38 Committee or its Budget Oversight Subcommittee.

39 **§ 30-203. (Expires July 1, 2024) Quorum; meetings; voting on recommendations.**

40 A majority of the members shall constitute a quorum. The Commission shall meet at least twice  
41 per year; meetings of the Commission shall be held at the call of the chairman or whenever the majority  
42 of the members so request.

43 No recommendation of the Commission shall be adopted if a majority of the Senate members or a  
44 majority of the House members appointed to the Commission (i) vote against the recommendation and  
45 (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

46 **§ 30-204. (Expires July 1, 2024) Compensation; expenses.**

47 ~~Members~~ Legislative members of the Commission shall receive such compensation as provided in  
48 § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance  
49 of their duties as provided in §§ 2.2-2813 and 2.2-2825. Unless otherwise approved in writing by the  
50 chairman of the Commission and the executive director of the Commission, nonlegislative citizen  
51 members shall only be reimbursed for travel originating and ending within the Commonwealth for the

52 purpose of attending meetings. However, all such compensation and expenses shall be paid from existing  
53 appropriations to the Commission or, if unfunded, shall be approved by the Joint Rules Committee.

54 **§ 30-205. (Expires July 1, 2024) Powers and duties of the Commission.**

55 The Commission shall have the following powers and duties:

56 1. Monitor the work of the State Corporation Commission in implementing Chapter 23 (§ 56-576  
57 et seq.) of Title 56, ~~receiving.~~ The Commission shall receive an annual report from the State Corporation  
58 Commission by November 1 regarding such implementation and shall receive such other reports as the  
59 Commission may be required to make ~~pursuant thereto,~~ including reviews, analyses, and impact on  
60 consumers of electric utility regulation in other states;

61 2. Examine generation, transmission and distribution systems reliability concerns;

62 3. Establish one or more subcommittees, composed of its membership, persons with expertise in  
63 the matters under consideration by the Commission, or both, to meet at the direction of the chairman of  
64 the Commission, for any purpose within the scope of the duties prescribed to the Commission by this  
65 section, provided that such persons who are not members of the Commission shall serve without  
66 compensation but shall be entitled to be reimbursed from funds appropriated or otherwise available to the  
67 Commission for reasonable and necessary expenses incurred in the performance of their duties; ~~and~~

68 4. Monitor applications by the Commonwealth for grants and awards for energy projects from the  
69 federal government;

70 5. Establish the Commonwealth Energy Research Consortium and distribute funds from the  
71 Commonwealth Energy Research Fund in accordance with the provisions of § 30-205.1;

72 6. Consider legislation referred to it during any session of the General Assembly or other requests  
73 by members of the General Assembly;

74 7. Conduct studies and gather information and data in order to accomplish its purposes set forth in  
75 § 30-201 and in connection with the faithful execution of the laws of the Commonwealth; and

76 8. Report annually to the General Assembly and the Governor with such recommendations as may  
77 be appropriate for legislative and administrative consideration in order to maintain reliable service in the  
78 Commonwealth while preserving the Commonwealth's position as a low-cost electricity market.

79           **§ 30-206. (Expires July 1, 2024) Staffing.**

80           ~~Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office~~  
81 ~~of Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the~~  
82 ~~Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis~~  
83 ~~and other services as requested by the Commission.~~ The Commission may appoint, employ, and remove  
84 an executive director and such other persons as it deems necessary, subject to funding in the appropriation  
85 act, and shall determine the duties and fix the salaries or compensation of such executive director and  
86 other persons, within the amounts appropriated for such purpose. The Commission may also employ  
87 experts who have knowledge of the issues before it. All agencies of the Commonwealth shall provide  
88 assistance to the Commission, upon request, subject to funding in the appropriation act.

89           **§ 30-209. (Expires July 1, 2024) Sunset.**

90           This chapter shall expire on July 1, ~~2024~~ 2029.

91           **§ 45.2-1711. Schedule for the Plan.**

92           A. The Division shall complete the Plan.

93           B. Prior to the completion of the Plan and each update thereof, the Division shall, at a public  
94 meeting, present drafts to, and consult with, the Virginia Coal and Energy Commission established  
95 pursuant to Chapter 25 (§ 30-188 et seq.) of Title 30 and the Commission on Electric Utility Regulation  
96 established pursuant to Chapter 31 (§ 30-201 et seq.) of Title 30.

97           C. The Plan shall be updated by the Division and submitted as provided in § 45.2-1713 by October  
98 1, 2014, and every fourth October 1 thereafter. In addition, the Division shall provide interim updates on  
99 the Plan by October 1 of the third year of each Governor's administration. Updated reports shall specify  
100 any progress attained toward each proposed action of the Plan, as well as reassess goals for energy  
101 conservation on the basis of progress to date in meeting the goals in the previous Plan and lessons learned  
102 from attempts to meet such goals.

103           D. Beginning with the Plan update in 2014, the Division shall include a section setting forth energy  
104 policy positions relevant to any potential regulations proposed or promulgated by the State Air Pollution  
105 Control Board to reduce carbon dioxide emissions from fossil fuel-fired electric generating units under §

106 111(d) of the federal Clean Air Act, 42 U.S.C. § 7411(d). In such section of the Plan, the Division shall  
107 address policy options for establishing separate standards of performance pursuant to § 111(d) of the  
108 federal Clean Air Act, 42 U.S.C. § 7411(d), for carbon dioxide emissions from existing fossil fuel-fired  
109 electric generating units to promote the Plan's overall goal of fuel diversity as follows:

110 1. The Plan shall address policy options for establishing the standards of performance for existing  
111 coal-fired electric generating units, including the following factors:

112 a. The most suitable system of emission reduction that (i) takes into consideration (a) the cost and  
113 benefit of achieving such reduction, (b) any non-air quality health and environmental impacts, and (c) the  
114 energy requirements of the Commonwealth and (ii) has been adequately demonstrated for coal-fired  
115 electric generating units that are subject to the standard of performance;

116 b. Reductions in emissions of carbon dioxide that can be achieved through measures reasonably  
117 undertaken at each coal-fired electric generating unit; and

118 c. Increased efficiencies and other measures that can be implemented at each coal-fired electric  
119 generating unit to reduce carbon dioxide emissions from the unit without converting from coal to other  
120 fuels, co-firing other fuels with coal, or limiting the utilization of the unit.

121 2. The Plan shall also address policy options for establishing the standards of performance for  
122 existing gas-fired electric generating units, including the following factors:

123 a. The application of the criteria specified in subdivisions 1 a and b to natural gas-fired electric  
124 generating units instead of to coal-fired electric generating units; and

125 b. Increased efficiencies and other measures that can be reasonably implemented at the unit to  
126 reduce carbon dioxide emissions from the unit without switching from natural gas to other lower-carbon  
127 fuels or limiting the utilization of the unit.

128 3. The Plan shall examine policy options for state regulatory action to adopt less stringent standards  
129 or longer compliance schedules than those provided for in applicable federal rules or guidelines based on  
130 analysis of the following:

131 a. Consumer impacts, including any disproportionate impacts of energy price increases on lower-  
132 income populations;

- 133            b. Unreasonable cost of reducing emissions resulting from plant age, location, or basic process
- 134 design;
- 135            c. Physical difficulties with or impossibility of implementing emission reduction measures;
- 136            d. The absolute cost of applying the performance standard to the unit;
- 137            e. The expected remaining useful life of the unit;
- 138            f. The economic impacts of closing the unit, including expected job losses, if the unit is unable to
- 139 comply with the performance standard; and
- 140            g. Any other factors specific to the unit that make application of a less stringent standard or longer
- 141 compliance schedule more reasonable.

142            4. The Plan shall identify options, to the maximum extent permissible, for any federally required

143 regulation of carbon dioxide emissions from existing fossil fuel-fired electric generating units and

144 regulatory mechanisms that provide flexibility in complying with such standards, including the averaging

145 of emissions, emissions trading, or other alternative implementation measures that are determined to

146 further the interests of the Commonwealth and its citizens.

147            **§ 45.2-1712. Annual reporting by investor-owned public utilities.**

148            Each investor-owned public utility providing electric service in the Commonwealth shall prepare

149 an annual report disclosing its efforts to conserve energy, including (i) its implementation of customer

150 demand-side management programs and (ii) efforts by the utility to improve efficiency and conserve

151 energy in its internal operations pursuant to § 56-235.1. The utility shall submit each annual report to the

152 Division and the Commission on Electric Utility Regulation by November 1 of each year, and the Division

153 shall compile the reports of the utilities and submit the compilation to the Governor and the General

154 Assembly as provided in the procedures of the Division of Legislative Automated Systems for the

155 processing of legislative documents.

156            **§ 45.2-1713. Submission of the Plan.**

157            Upon completion, the Division shall submit the Plan, including periodic updates thereto, to the

158 Governor, the Commissioners of the State Corporation Commission, and the General Assembly and shall

159 present the Plan to the Commission on Electric Utility Regulation at a public meeting. The Plan shall be

160 submitted as provided in the procedures of the Division of Legislative Automated Systems for the  
161 processing of legislative documents. The Plan's executive summary shall be posted on the General  
162 Assembly's website.

163 **§ 56-599. Integrated resource plan required.**

164 A. Each electric utility shall file an updated integrated resource plan by July 1, 2015. Thereafter,  
165 each electric utility shall file an updated integrated resource plan by May 1, in each year immediately  
166 preceding the year the utility is subject to a triennial review filing. A copy of each integrated resource plan  
167 shall be provided to the Chairman of the House Committee on Labor and Commerce, the Chairman of the  
168 Senate Committee on Commerce and Labor, and to the Chairman of the Commission on Electric Utility  
169 Regulation. All updated integrated resource plans shall comply with the provisions of any relevant order  
170 of the Commission establishing guidelines for the format and contents of updated and revised integrated  
171 resource plans. Each integrated resource plan shall consider options for maintaining and enhancing rate  
172 stability, energy independence, economic development including retention and expansion of energy-  
173 intensive industries, and service reliability.

174 B. In preparing an integrated resource plan, each electric utility shall systematically evaluate and  
175 may propose:

- 176 1. Entering into short-term and long-term electric power purchase contracts;
- 177 2. Owning and operating electric power generation facilities;
- 178 3. Building new generation facilities;
- 179 4. Relying on purchases from the short term or spot markets;
- 180 5. Making investments in demand-side resources, including energy efficiency and demand-side  
181 management services;
- 182 6. Taking such other actions, as the Commission may approve, to diversify its generation supply  
183 portfolio and ensure that the electric utility is able to implement an approved plan;
- 184 7. The methods by which the electric utility proposes to acquire the supply and demand resources  
185 identified in its proposed integrated resource plan;

186 8. The effect of current and pending state and federal environmental regulations upon the continued  
187 operation of existing electric generation facilities or options for construction of new electric generation  
188 facilities;

189 9. The most cost effective means of complying with current and pending state and federal  
190 environmental regulations, including compliance options to minimize effects on customer rates of such  
191 regulations;

192 10. Long-term electric distribution grid planning and proposed electric distribution grid  
193 transformation projects;

194 11. Developing a long-term plan for energy efficiency measures to accomplish policy goals of  
195 reduction in customer bills, particularly for low-income, elderly, and disabled customers; reduction in  
196 emissions; and reduction in carbon intensity; and

197 12. Developing a long-term plan to integrate new energy storage facilities into existing generation  
198 and distribution assets to assist with grid transformation.

199 C. As part of preparing any integrated resource plan pursuant to this section, each utility shall  
200 conduct a facility retirement study for owned facilities located in the Commonwealth that emit carbon  
201 dioxide as a byproduct of combusting fuel and shall include the study results in its integrated resource  
202 plan. Upon filing the integrated resource plan with the Commission, the utility shall contemporaneously  
203 disclose the study results to each planning district commission, county board of supervisors, and city and  
204 town council where such electric generation unit is located, the Department of Energy, the Department of  
205 Housing and Community Development, the Virginia Employment Commission, and the Virginia Council  
206 on Environmental Justice. The disclosure shall include (i) the driving factors of the decision to retire and  
207 (ii) the anticipated retirement year of any electric generation unit included in the plan. Any electric  
208 generating facility with an anticipated retirement date that meets the criteria of § 45.2-1701.1 shall comply  
209 with the public disclosure requirements therein.

210 D. As part of preparing any integrated resource plan pursuant to this section, each utility shall  
211 make a draft of the updated integrated resource plan available to the public and shall conduct outreach to  
212 engage the public and provide opportunities for the public to contribute information and ideas, as well as



213 the ability for the public to make relevant inquiries, to the utility when formulating its integrated resource  
214 plan. Each utility shall report its public outreach efforts to the Commission. Additionally, each utility shall  
215 conduct an ongoing stakeholder review process for the purpose of considering, and inviting stakeholder  
216 input and review on, changes to the utility's integrated resource plan development methodology and  
217 modeling inputs and assumptions. The stakeholder review process shall include representatives from  
218 multiple interest groups, including residential and industrial classes of ratepayers. Each utility shall, at the  
219 time of the filing of its integrated resource plan, indicate to the Commission the composition of current  
220 and prospective stakeholders and report on any stakeholder meetings that have occurred prior to the filing  
221 date.

222       E. The Commission shall analyze and review an integrated resource plan and, after giving notice  
223 and opportunity to be heard, the Commission shall make a determination within nine months after the date  
224 of filing as to whether such an integrated resource plan is reasonable and is in the public interest.

225 **2. That the State Corporation Commission (the Commission) shall convene a stakeholder work**  
226 **group to evaluate the requirements for integrated resource plans set forth in § 56-599 of the Code**  
227 **of Virginia, as amended by this act, and to evaluate the potential for a Commonwealth energy**  
228 **research consortium and fund to conduct energy research and policy analysis with participation**  
229 **from higher education institutions. The work group shall (i) assess how the integrated resource plan**  
230 **process can be streamlined, focused, and based on recent statutory changes, or otherwise revised to**  
231 **remove unnecessary or obsolete requirements and (ii) assess how a Commonwealth energy research**  
232 **consortium and fund could further the Commonwealth Clean Energy Policy as described in § 45.2-**  
233 **1706.1 of the Code of Virginia; could provide objective analysis and planning to guide decisions in**  
234 **the public and private sectors, including analysis of potential legislation; could identify programs**  
235 **that would reduce customer energy costs to consumers; and could develop a statewide energy**  
236 **efficiency strategy. The work group shall consist of representatives of incumbent electric utilities,**  
237 **environmental advocates, affordability advocates, and industry stakeholders and a representative**  
238 **of the Division of Consumer Counsel of the Department of Law. The Commission shall document**  
239 **the proceedings of the work group and submit a written report to the Commission on Electricity**

240 **Utility Regulation with suggested statutory changes relating to the integrated resource plan process**  
241 **no later than December 1, 2023, and simultaneously make copies of the report publicly available on**  
242 **the Commission's website.**

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