

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

1 A BILL to amend and reenact §§ 2.2-3705.6, 15.2-2233, and 15.2-2288.7 of the Code of Virginia and to  
2 amend the Code of Virginia by adding sections numbered 15.2-2314.1 and 15.2-4209.1, by adding  
3 in Chapter 17 of Title 45.2 an article number 10 consisting of sections numbered 45.2-1735  
4 through 45.2-1741, and by adding in Chapter 17 of Title 45.2 an article number 11 consisting of  
5 sections numbered 45.2-1742 and 45.2-1743, relating to Virginia Energy Facility Review Board;  
6 established; localities; comprehensive plan and local ordinances related to siting of critical  
7 interconnection projects; planning district commissions; regional energy plans; Virginia Clean  
8 Energy Technical Assistance Center; established.

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

10 **1. That §§ 2.2-3705.6, 15.2-2233, and 15.2-2288.7 of the Code of Virginia are amended and reenacted**  
11 **and that the Code of Virginia is amended by adding sections numbered 15.2-2314.1 and 15.2-4209.1,**  
12 **by adding in Chapter 17 of Title 45.2 an article number 10 consisting of sections numbered 45.2-**  
13 **1735 through 45.2-1740, and by adding in Chapter 17 of Title 45.2 an article number 11 consisting**  
14 **of sections numbered 45.2-1742 and 45.2-1743 as follows:**

15 **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

16 The following information contained in a public record is excluded from the mandatory disclosure  
17 provisions of this chapter but may be disclosed by the custodian in his discretion, except where such  
18 disclosure is prohibited by law. Redaction of information excluded under this section from a public record  
19 shall be conducted in accordance with § 2.2-3704.01.

20 1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-  
21 132.4 or 62.1-134.1.

22 2. Financial statements not publicly available filed with applications for industrial development  
23 financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.

24 3. Proprietary information, voluntarily provided by private business pursuant to a promise of  
25 confidentiality from a public body, used by the public body for business, trade, and tourism development

26 or retention; and memoranda, working papers, or other information related to businesses that are  
27 considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining  
28 is involved and where disclosure of such information would adversely affect the financial interest of the  
29 public body.

30 4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-  
31 239 et seq.), as such Act existed prior to July 1, 1992.

32 5. Fisheries data that would permit identification of any person or vessel, except when required by  
33 court order as specified in § 28.2-204.

34 6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections  
35 provided to the Department of Rail and Public Transportation, provided such information is exempt under  
36 the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered  
37 by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided  
38 in confidence to the Surface Transportation Board and the Federal Railroad Administration.

39 7. Proprietary information related to inventory and sales, voluntarily provided by private energy  
40 suppliers to the Department of Energy, used by that Department for energy contingency planning purposes  
41 or for developing consolidated statistical information on energy supplies.

42 8. Confidential proprietary information furnished to the Board of Medical Assistance Services or  
43 the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of  
44 Chapter 10 of Title 32.1.

45 9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and  
46 cost projections provided by a private transportation business to the Virginia Department of Transportation  
47 and the Department of Rail and Public Transportation for the purpose of conducting transportation studies  
48 needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st  
49 Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the  
50 federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by  
51 the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in

52 confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the  
53 exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

54 10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets  
55 or proprietary information by any person in connection with a procurement transaction or by any person  
56 who has submitted to a public body an application for prequalification to bid on public construction  
57 projects in accordance with subsection B of § 2.2-4317.

58 11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity,  
59 its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed  
60 under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education  
61 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public  
62 prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17  
63 notwithstanding, the financial interest or bargaining position of the public entity would be adversely  
64 affected and (ii) the basis for the determination required in clause (i) is documented in writing by the  
65 responsible public entity; and

66 b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or  
67 affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§  
68 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et  
69 seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial  
70 information of the private entity, including balance sheets and financial statements, that are not generally  
71 available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by  
72 the private entity where if such information was made public prior to the execution of an interim agreement  
73 or a comprehensive agreement, the financial interest or bargaining position of the public or private entity  
74 would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be  
75 excluded from the provisions of this chapter, the private entity shall make a written request to the  
76 responsible public entity:

77 (1) Invoking such exclusion upon submission of the data or other materials for which protection  
78 from disclosure is sought;

- 79 (2) Identifying with specificity the data or other materials for which protection is sought; and  
80 (3) Stating the reasons why protection is necessary.

81 The responsible public entity shall determine whether the requested exclusion from disclosure is  
82 necessary to protect the trade secrets or financial information of the private entity. To protect other  
83 information submitted by the private entity from disclosure, the responsible public entity shall determine  
84 whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement  
85 would adversely affect the financial interest or bargaining position of the public or private entity. The  
86 responsible public entity shall make a written determination of the nature and scope of the protection to  
87 be afforded by the responsible public entity under this subdivision. Once a written determination is made  
88 by the responsible public entity, the information afforded protection under this subdivision shall continue  
89 to be protected from disclosure when in the possession of any affected jurisdiction or affected local  
90 jurisdiction.

91 Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed  
92 to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b)  
93 information concerning the terms and conditions of any interim or comprehensive agreement, service  
94 contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and  
95 the private entity; (c) information concerning the terms and conditions of any financing arrangement that  
96 involves the use of any public funds; or (d) information concerning the performance of any private entity  
97 developing or operating a qualifying transportation facility or a qualifying project.

98 For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction,"  
99 "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation  
100 facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined  
101 in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education  
102 Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

103 12. Confidential proprietary information or trade secrets, not publicly available, provided by a  
104 private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to  
105 a fund administered in connection with financial assistance rendered or to be rendered by the Virginia

106 Resources Authority where, if such information were made public, the financial interest of the private  
107 person or entity would be adversely affected.

108 13. Trade secrets or confidential proprietary information that is not generally available to the public  
109 through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii)  
110 franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority  
111 pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates  
112 to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new  
113 technologies or implementation of improvements, where such new services, technologies, or  
114 improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise  
115 area, and where, if such information were made public, the competitive advantage or financial interests of  
116 the franchisee would be adversely affected.

117 In order for trade secrets or confidential proprietary information to be excluded from the provisions  
118 of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the  
119 data or other materials for which protection from disclosure is sought, (b) identify the data or other  
120 materials for which protection is sought, and (c) state the reason why protection is necessary.

121 No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the  
122 bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the  
123 applicable franchising authority serves on the management board or as an officer of the bidder, applicant,  
124 or franchisee.

125 14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of  
126 charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to  
127 subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Commissioner of  
128 Agriculture and Consumer Services related to approval of electronic and mechanical equipment.

129 15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board  
130 pursuant to § 3.2-1215.

131 16. Trade secrets submitted by CMRS providers as defined in § 56-484.12 to the former Wireless  
132 Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, relating to the  
133 provision of wireless E-911 service.

134 17. Information relating to a grant or loan application, or accompanying a grant or loan application,  
135 to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1  
136 if disclosure of such information would (i) reveal proprietary business or research-related information  
137 produced or collected by the applicant in the conduct of or as a result of study or research on medical,  
138 rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been  
139 publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of  
140 the applicant.

141 18. Confidential proprietary information and trade secrets developed and held by a local public  
142 body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television  
143 services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such  
144 information would be harmful to the competitive position of the locality.

145 In order for confidential proprietary information or trade secrets to be excluded from the provisions  
146 of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with  
147 specificity the information for which protection is sought, and (c) state the reasons why protection is  
148 necessary. However, the exemption provided by this subdivision shall not apply to any authority created  
149 pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

150 19. Confidential proprietary information and trade secrets developed by or for a local authority  
151 created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide  
152 qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of  
153 Title 56, where disclosure of such information would be harmful to the competitive position of the  
154 authority, except that information required to be maintained in accordance with § 15.2-2160 shall be  
155 released.

156 20. Trade secrets or financial information of a business, including balance sheets and financial  
157 statements, that are not generally available to the public through regulatory disclosure or otherwise,

158 provided to the Department of Small Business and Supplier Diversity as part of an application for  
159 certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§  
160 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the  
161 provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or  
162 other materials for which protection from disclosure is sought, (ii) identify the data or other materials for  
163 which protection is sought, and (iii) state the reasons why protection is necessary.

164 21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health  
165 Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

166 22. Trade secrets, including, but not limited to, financial information, including balance sheets and  
167 financial statements, that are not generally available to the public through regulatory disclosure or  
168 otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State  
169 Inspector General for the purpose of an audit, special investigation, or any study requested by the Office  
170 of the State Inspector General in accordance with law.

171 In order for the information specified in this subdivision to be excluded from the provisions of this  
172 chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

173 a. Invoking such exclusion upon submission of the data or other materials for which protection  
174 from disclosure is sought;

175 b. Identifying with specificity the data or other materials for which protection is sought; and

176 c. Stating the reasons why protection is necessary.

177 The State Inspector General shall determine whether the requested exclusion from disclosure is  
178 necessary to protect the trade secrets or financial information of the private entity. The State Inspector  
179 General shall make a written determination of the nature and scope of the protection to be afforded by it  
180 under this subdivision.

181 23. Information relating to a grant application, or accompanying a grant application, submitted to  
182 the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets, (b) financial  
183 information of a grant applicant that is not a public body, including balance sheets and financial  
184 statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c)

185 research-related information produced or collected by the applicant in the conduct of or as a result of study  
186 or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such  
187 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the  
188 competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by  
189 the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided  
190 by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the  
191 performance of the duties of the Commission pursuant to § 3.2-3103.

192 In order for the information specified in this subdivision to be excluded from the provisions of this  
193 chapter, the applicant shall make a written request to the Commission:

- 194 a. Invoking such exclusion upon submission of the data or other materials for which protection  
195 from disclosure is sought;
- 196 b. Identifying with specificity the data, information or other materials for which protection is  
197 sought; and
- 198 c. Stating the reasons why protection is necessary.

199 The Commission shall determine whether the requested exclusion from disclosure is necessary to  
200 protect the trade secrets, financial information, or research-related information of the applicant. The  
201 Commission shall make a written determination of the nature and scope of the protection to be afforded  
202 by it under this subdivision.

203 24. a. Information held by the Commercial Space Flight Authority relating to rate structures or  
204 charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure  
205 of such information would adversely affect the financial interest or bargaining position of the Authority  
206 or a private entity providing the information to the Authority; or

207 b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure  
208 of such information would (i) reveal (a) trade secrets of the private entity; (b) financial information of the  
209 private entity, including balance sheets and financial statements, that are not generally available to the  
210 public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity  
211 and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.



212 In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded  
213 from the provisions of this chapter, the private entity shall make a written request to the Authority:

214 (1) Invoking such exclusion upon submission of the data or other materials for which protection  
215 from disclosure is sought;

216 (2) Identifying with specificity the data or other materials for which protection is sought; and

217 (3) Stating the reasons why protection is necessary.

218 The Authority shall determine whether the requested exclusion from disclosure is necessary to  
219 protect the trade secrets or financial information of the private entity. To protect other information  
220 submitted by the private entity from disclosure, the Authority shall determine whether public disclosure  
221 would adversely affect the financial interest or bargaining position of the Authority or private entity. The  
222 Authority shall make a written determination of the nature and scope of the protection to be afforded by  
223 it under this subdivision.

224 25. Information of a proprietary nature furnished by an agricultural landowner or operator to the  
225 Department of Conservation and Recreation, the Department of Environmental Quality, the Department  
226 of Agriculture and Consumer Services, or any political subdivision, agency, or board of the  
227 Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part  
228 of a state or federal regulatory enforcement action.

229 26. Trade secrets provided to the Department of Environmental Quality pursuant to the provisions  
230 of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the  
231 submitting party shall (i) invoke this exclusion upon submission of the data or materials for which  
232 protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and  
233 (iii) state the reasons why protection is necessary.

234 27. Information of a proprietary nature furnished by a licensed public-use airport to the Department  
235 of Aviation for funding from programs administered by the Department of Aviation or the Virginia  
236 Aviation Board, where if such information was made public, the financial interest of the public-use airport  
237 would be adversely affected.

238 In order for the information specified in this subdivision to be excluded from the provisions of this  
239 chapter, the public-use airport shall make a written request to the Department of Aviation:

240 a. Invoking such exclusion upon submission of the data or other materials for which protection  
241 from disclosure is sought;

242 b. Identifying with specificity the data or other materials for which protection is sought; and

243 c. Stating the reasons why protection is necessary.

244 28. Information relating to a grant, loan, or investment application, or accompanying a grant, loan,  
245 or investment application, submitted to the Commonwealth of Virginia Innovation Partnership Authority  
246 (the Authority) established pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22, an advisory  
247 committee of the Authority, or any other entity designated by the Authority to review such applications,  
248 to the extent that such records would (i) reveal (a) trade secrets; (b) financial information of a party to a  
249 grant, loan, or investment application that is not a public body, including balance sheets and financial  
250 statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c)  
251 research-related information produced or collected by a party to the application in the conduct of or as a  
252 result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly  
253 issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii)  
254 be harmful to the competitive position of a party to a grant, loan, or investment application; and  
255 memoranda, staff evaluations, or other information prepared by the Authority or its staff, or a reviewing  
256 entity designated by the Authority, exclusively for the evaluation of grant, loan, or investment  
257 applications, including any scoring or prioritization documents prepared for and forwarded to the  
258 Authority.

259 29. Proprietary information, voluntarily provided by a private business pursuant to a promise of  
260 confidentiality from a public body, used by the public body for a solar services or carbon sequestration  
261 agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business;  
262 (b) financial information of the private business, including balance sheets and financial statements, that  
263 are not generally available to the public through regulatory disclosure or otherwise; or (c) other

264 information submitted by the private business and (ii) adversely affect the financial interest or bargaining  
265 position of the public body or private business.

266 In order for the information specified in clauses (i)(a), (b), and (c) to be excluded from the  
267 provisions of this chapter, the private business shall make a written request to the public body:

268 a. Invoking such exclusion upon submission of the data or other materials for which protection  
269 from disclosure is sought;

270 b. Identifying with specificity the data or other materials for which protection is sought; and

271 c. Stating the reasons why protection is necessary.

272 30. Information contained in engineering and construction drawings and plans submitted for the  
273 sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such  
274 information would identify specific trade secrets or other information that would be harmful to the  
275 competitive position of the owner or lessee. However, such information shall be exempt only until the  
276 building is completed. Information relating to the safety or environmental soundness of any building shall  
277 not be exempt from disclosure.

278 31. Trade secrets, including, but not limited to, financial information, including balance sheets and  
279 financial statements that are not generally available to the public through regulatory disclosure or  
280 otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the  
281 Virginia Department of Transportation for the purpose of an audit, special investigation, or any study  
282 requested by the Virginia Department of Transportation in accordance with law.

283 In order for the records specified in this subdivision to be excluded from the provisions of this  
284 chapter, the private or nongovernmental entity shall make a written request to the Department:

285 a. Invoking such exclusion upon submission of the data or other materials for which protection  
286 from disclosure is sought;

287 b. Identifying with specificity the data or other materials for which protection is sought; and

288 c. Stating the reasons why protection is necessary.

289 The Virginia Department of Transportation shall determine whether the requested exclusion from  
290 disclosure is necessary to protect trade secrets or financial records of the private entity. The Virginia

291 Department of Transportation shall make a written determination of the nature and scope of the protection  
292 to be afforded by it under this subdivision.

293 32. Information related to a grant application, or accompanying a grant application, submitted to  
294 the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b)  
295 financial information of a grant applicant that is not a public body, including balance sheets and financial  
296 statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c)  
297 research-related information produced or collected by the applicant in the conduct of or as a result of study  
298 or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such  
299 information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the  
300 competitive position of the applicant. The exclusion provided by this subdivision shall only apply to grants  
301 administered by the Department, the Director of the Department, or pursuant to § 36-139, Article 26 (§  
302 2.2-2484 et seq.) of Chapter 24, or the Virginia Telecommunication Initiative as authorized by the  
303 appropriations act.

304 In order for the information submitted by the applicant and specified in this subdivision to be  
305 excluded from the provisions of this chapter, the applicant shall make a written request to the Department:

306 a. Invoking such exclusion upon submission of the data or other materials for which protection  
307 from disclosure is sought;

308 b. Identifying with specificity the data, information, or other materials for which protection is  
309 sought; and

310 c. Stating the reasons why protection is necessary.

311 The Department shall determine whether the requested exclusion from disclosure is necessary to  
312 protect the trade secrets or confidential proprietary information of the applicant. The Department shall  
313 make a written determination of the nature and scope of the protection to be afforded by it under this  
314 subdivision.

315 33. Financial and proprietary records submitted with a loan application to a locality for the  
316 preservation or construction of affordable housing that is related to a competitive application to be  
317 submitted to either the U.S. Department of Housing and Urban Development (HUD) or the Virginia

318 Housing Development Authority (VHDA), when the release of such records would adversely affect the  
319 bargaining or competitive position of the applicant. Such records shall not be withheld after they have  
320 been made public by HUD or VHDA.

321 34. Information of a proprietary or confidential nature disclosed by a health carrier or pharmacy  
322 benefits manager pursuant to § 38.2-3407.15:6, a wholesale distributor pursuant to § 54.1-3436.1, or a  
323 manufacturer pursuant to § 54.1-3442.02.

324 35. Trade secrets, proprietary information, or financial information, including balance sheets and  
325 financial statements, that are not generally available to the public through regulatory disclosure or  
326 otherwise, supplied by an individual or a private or nongovernmental entity to the Fort Monroe Authority  
327 for the purpose of complying with the obligations of any lease, easement, license, permit, or other  
328 agreement, whether of a commercial or residential real estate nature, pertaining to the use or occupancy  
329 of any portion of Fort Monroe.

330 In order for the records specified in this subdivision to be excluded from the provisions of this  
331 chapter, the individual or private or nongovernmental entity shall make a written request to the Fort  
332 Monroe Authority:

333 a. Invoking such exclusion upon submission of the data or other materials for which protection  
334 from disclosure is sought;

335 b. Identifying with specificity the data, information, or other materials for which protection is  
336 sought; and

337 c. Stating the reasons why protection is necessary.

338 36. Information of a confidential or proprietary nature included in any critical interconnection  
339 project application filed with the Virginia Energy Facility Review Board under the provisions of § 45.2-  
340 1739, including any supporting documents or prefiled testimony.

341 **§ 15.2-2223. Comprehensive plan to be prepared and adopted; scope and purpose.**

342 A. The local planning commission shall prepare and recommend a comprehensive plan for the  
343 physical development of the territory within its jurisdiction and every governing body shall adopt a  
344 comprehensive plan for the territory under its jurisdiction.

345 In the preparation of a comprehensive plan, the commission shall make careful and comprehensive  
346 surveys and studies of the existing conditions and trends of growth, and of the probable future  
347 requirements of its territory and inhabitants. The comprehensive plan shall be made with the purpose of  
348 guiding and accomplishing a coordinated, adjusted and harmonious development of the territory which  
349 will, in accordance with present and probable future needs and resources, best promote the health, safety,  
350 morals, order, convenience, prosperity and general welfare of the inhabitants, including the elderly and  
351 persons with disabilities.

352 The comprehensive plan shall be general in nature, in that it shall designate the general or  
353 approximate location, character, and extent of each feature, including any road improvement and any  
354 transportation improvement, shown on the plan and shall indicate where existing lands or facilities are  
355 proposed to be extended, widened, removed, relocated, vacated, narrowed, abandoned, or changed in use  
356 as the case may be.

357 B. 1. As part of the comprehensive plan, each locality shall develop a transportation plan that  
358 designates a system of transportation infrastructure needs and recommendations that include the  
359 designation of new and expanded transportation facilities and that support the planned development of the  
360 territory covered by the plan and shall include, as appropriate, but not be limited to, roadways, bicycle  
361 accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, freight  
362 corridors, and public transportation facilities. The plan shall recognize and differentiate among a hierarchy  
363 of roads such as expressways, arterials, and collectors. In developing the plan, the locality shall take into  
364 consideration how to align transportation infrastructure and facilities with affordable, accessible housing  
365 and community services that are located within the territory in order to facilitate community integration  
366 of the elderly and persons with disabilities. The Virginia Department of Transportation shall, upon request,  
367 provide localities with technical assistance in preparing such transportation plan.

368 2. The transportation plan shall include a map that shall show road and transportation  
369 improvements, including the cost estimates of such road and transportation improvements from the  
370 Virginia Department of Transportation, taking into account the current and future needs of residents in the

371 locality while considering the current and future needs of the planning district within which the locality is  
372 situated.

373 3. The transportation plan, and any amendment thereto pursuant to § 15.2-2229, shall be consistent  
374 with the Commonwealth Transportation Board's Statewide Transportation Plan developed pursuant to §  
375 33.2-353, the Six-Year Improvement Program adopted pursuant to subsection B of § 33.2-214, and the  
376 location of routes to be followed by roads comprising systems of state highways pursuant to subsection A  
377 of § 33.2-208. The locality shall consult with the Virginia Department of Transportation to assure such  
378 consistency is achieved. The transportation plan need reflect only those changes in the annual update of  
379 the Six-Year Improvement Program that are deemed to be significant new, expanded, or relocated  
380 roadways.

381 4. Prior to the adoption of the transportation plan or any amendment to the transportation plan, the  
382 locality shall submit such plan or amendment to the Department for review and comment. The Department  
383 shall conduct its review and provide written comments to the locality on the consistency of the  
384 transportation plan or any amendment to the provisions of subdivision 1. The Department shall provide  
385 such written comments to the locality within 90 days of receipt of the plan or amendment, or such other  
386 shorter period of time as may be otherwise agreed upon by the Department and the locality.

387 5. The locality shall submit a copy of the adopted transportation plan or any amendment to the  
388 transportation plan to the Department for informational purposes. If the Department determines that the  
389 transportation plan or amendment is not consistent with the provisions of subdivision 1, the Department  
390 shall notify the Commonwealth Transportation Board so that the Board may take appropriate action in  
391 accordance with subsection F of § 33.2-214.

392 6. If the adopted transportation plan designates corridors planned to be served by mass transit, as  
393 defined in § 33.2-100, a portion of its allocation from (i) the Northern Virginia Transportation Authority  
394 distribution specified in subdivision B 1 of § 33.2-2510, (ii) the commercial and industrial real property  
395 tax revenue specified in § 58.1-3221.3, and (iii) the secondary system road construction program, as  
396 described in Article 5 (§ 33.2-351 et seq.) of Chapter 3 of Title 33.2, may be used for the purpose of utility  
397 undergrounding in the planned corridor, if the locality matches 100 percent of the state allocation.

398 7. Each locality's amendments or updates to its transportation plan as required by subdivisions 2  
399 through 5 shall be made on or before its ongoing scheduled date for updating its transportation plan.

400 C. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive matter,  
401 shall show the locality's long-range recommendations for the general development of the territory covered  
402 by the plan. It may include, but need not be limited to:

403 1. The designation of areas for various types of public and private development and use, such as  
404 different kinds of residential, including age-restricted, housing; business; industrial; agricultural; mineral  
405 resources; conservation; active and passive recreation; public service; flood plain and drainage; and other  
406 areas;

407 2. The designation of a system of community service facilities such as parks, sports playing fields,  
408 forests, schools, playgrounds, public buildings and institutions, hospitals, nursing homes, assisted living  
409 facilities, community centers, waterworks, sewage disposal or waste disposal areas, and the like;

410 3. The designation of historical areas and areas for urban renewal or other treatment;

411 4. The designation of areas for the implementation of reasonable measures to provide for the  
412 continued availability, quality, and sustainability of groundwater and surface water;

413 5. A capital improvements program, a subdivision ordinance, a zoning ordinance and zoning  
414 district maps, mineral resource district maps and agricultural and forestal district maps, where applicable;

415 6. The location of existing or proposed recycling centers;

416 7. The location of military bases, military installations, and military airports and their adjacent  
417 safety areas; and

418 8. The designation of corridors or routes for electric transmission lines of 150 kilovolts or more.

419 D. The comprehensive plan shall include the designation of areas and implementation of measures  
420 for the construction, rehabilitation and maintenance of affordable housing, which is sufficient to meet the  
421 current and future needs of residents of all levels of income in the locality while considering the current  
422 and future needs of the planning district within which the locality is situated.

423 E. The comprehensive plan shall consider strategies to provide broadband infrastructure that is  
424 sufficient to meet the current and future needs of residents and businesses in the locality. To this end, local



425 planning commissions may consult with and receive technical assistance from the Center for Innovative  
426 Technology, among other resources.

427 F. The comprehensive plan is encouraged to consider strategies to address resilience. As used in  
428 this subsection, "resilience" means the capability to anticipate, prepare for, respond to, and recover from  
429 significant multi-hazard threats with minimum damage to social well-being, health, the economy, and the  
430 environment.

431 G. By July 1, 2028, as part of the comprehensive plan, each locality, in consultation with the  
432 planning district commission for the locality's planning district, shall update its comprehensive plan to  
433 include provisions making it consistent with the regional energy plan adopted by such planning district  
434 commission pursuant to § 15.2-4209.1 and the Commonwealth Clean Energy Policy established in § 45.2-  
435 1706.1 and takes into account forecasted energy demand growth. Such update shall identify any previously  
436 developed project site locations that may be suitable for renewable energy development. The locality shall  
437 submit a copy of the adopted energy plan by January 1, 2028 or any subsequent amendment to the energy  
438 plan to the Virginia Energy Facility Review Board.

439 **§ 15.2-2288.7. Local regulation of solar facilities and critical interconnection projects.**

440 A. An owner of a residential dwelling unit may install a solar facility on the roof of such dwelling  
441 to serve the electricity or thermal needs of that dwelling, provided that such installation is (i) in compliance  
442 with any height and setback requirements in the zoning district where such property is located and (ii) in  
443 compliance with any provisions pertaining to any local historic, architectural preservation, or corridor  
444 protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local  
445 ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property  
446 zoned residential shall be permitted, provided that such installation is (a) in compliance with any height  
447 and setback requirements in the zoning district where such property is located and (b) in compliance with  
448 any provisions pertaining to any local historic, architectural preservation, or corridor protection district  
449 adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other  
450 solar facility proposed on property zoned residential, including any solar facility that is designed to serve,

451 or serves, the electricity or thermal needs of any property other than the property where such facilities are  
452 located, shall be subject to any applicable zoning regulations of the locality.

453 B. An owner of real property zoned agricultural may install a solar facility on the roof of a  
454 residential dwelling on such property, or on the roof of another building or structure on such property, to  
455 serve the electricity or thermal needs of that property upon which such facilities are located, provided that  
456 such installation is (i) in compliance with any height and setback requirements in the zoning district where  
457 such property is located and (ii) in compliance with any provisions pertaining to any local historic,  
458 architectural preservation, or corridor protection district adopted pursuant to § 15.2-2306 where such  
459 property is located. Unless a local ordinance provides otherwise, a ground-mounted solar energy  
460 generation facility to be located on property zoned agricultural and to be operated under § 56-594 or 56-  
461 594.2 shall be permitted, provided that such installation is (a) in compliance with any height and setback  
462 requirements in the zoning district where such property is located and (b) in compliance with any  
463 provisions pertaining to any local historic, architectural preservation, or corridor protection district  
464 adopted pursuant to § 15.2-2306 where such property is located. Except as otherwise provided herein, any  
465 other solar facility proposed on property zoned agricultural, including any solar facility that is designed  
466 to serve, or serves, the electricity or thermal needs of any property other than the property where such  
467 facilities are located, shall be subject to any applicable zoning regulations of the locality.

468 C. An owner of real property zoned commercial, industrial, or institutional may install a solar  
469 facility on the roof of one or more buildings located on such property to serve the electricity or thermal  
470 needs of that property upon which such facilities are located, provided that such installation is (i) in  
471 compliance with any height and setback requirements in the zoning district where such property is located  
472 and (ii) in compliance with any provisions pertaining to any local historic, architectural preservation, or  
473 corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Unless a local  
474 ordinance provides otherwise, a ground-mounted solar energy generation facility to be located on property  
475 zoned commercial, industrial, or institutional shall be permitted, provided that such installation is (a) in  
476 compliance with any height and setback requirements in the zoning district where such property is located  
477 and (b) in compliance with any provisions pertaining to any local historic, architectural preservation, or

478 corridor protection district adopted pursuant to § 15.2-2306 where such property is located. Except as  
479 otherwise provided herein, any other solar facility proposed on property zoned commercial, industrial, or  
480 institutional, including any solar facility that is designed to serve, or serves, the electricity or thermal needs  
481 of any property other than the property where such facilities are located, shall be subject to any applicable  
482 zoning regulations of the locality.

483 D. An owner of real property zoned mixed-use may install a solar facility on the roof of one or  
484 more buildings located on such property to serve the electricity or thermal needs of that property upon  
485 which such facilities are located, provided that such installation is (i) in compliance with any height and  
486 setback requirements in the zoning district where such property is located and (ii) in compliance with any  
487 provisions pertaining to any local historic, architectural preservation, or corridor protection district  
488 adopted pursuant to § 15.2-2306 where such property is located. Unless a local ordinance provides  
489 otherwise, a ground-mounted solar energy generation facility to be located on property zoned mixed-use  
490 shall be permitted, provided that such installation is (a) in compliance with any height and setback  
491 requirements in the zoning district where such property is located and (b) in compliance with any  
492 provisions pertaining to any local historic, architectural preservation, or corridor protection district  
493 adopted pursuant to § 15.2-2306 where such property is located. Except as provided herein, any other  
494 solar facility proposed on property zoned mixed-use, including any solar facility that is designed to serve,  
495 or serves, the electricity or thermal needs of any property other than the property where such facilities are  
496 located, shall be subject to any applicable zoning regulations of the locality.

497 E. Nothing in this section shall be construed to supersede or limit contracts or agreements between  
498 or among individuals or private entities related to the use of real property, including recorded declarations  
499 and covenants, the provisions of condominium instruments of a condominium created pursuant to the  
500 Virginia Condominium Act (§ 55.1-1900 et seq.), the declaration of a common interest community as  
501 defined in § 54.1-2345, the cooperative instruments of a cooperative created pursuant to the Virginia Real  
502 Estate Cooperative Act (§ 55.1-2100 et seq.), or any declaration of a property owners' association created  
503 pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.).

504 F. A locality, by ordinance, may provide by-right authority for installation of solar facilities in any  
505 zoning classification in addition to that provided in this section. A locality may also, by ordinance, require  
506 a property owner or an applicant for a permit pursuant to the Uniform Statewide Building Code (§ 36-97  
507 et seq.) who removes solar panels to dispose of such panels in accordance with such ordinance in addition  
508 to other applicable laws and regulations affecting such disposal.

509 G. By July 1, 2026, each locality shall adopt an ordinance for the permitting of solar energy  
510 facilities and energy storage facilities, that is consistent with the Commonwealth Clean Energy Policy  
511 established in § 45.2-1706.1 and the model ordinance adopted by the Virginia Energy Facilities Review  
512 Board in accordance with § 45.2-1740. The locality shall submit a copy of the local ordinance to the  
513 Virginia Energy Facility Review Board by July 1, 2026 and after any substantive change is adopted by  
514 the locality.

515 H. No local ordinance shall include (i) any unreasonable restriction, as defined in § 45.2-1735, on  
516 the installation of a critical interconnection project or the building of structures that facilitate the  
517 installation of critical interconnection projects or (ii) any prohibitions on the use of solar panels that  
518 comply with generally accepted national environmental protection and product safety standards such as  
519 those set forth in subdivision A 13 of § 15.2-2286, provided that such installation is in compliance with  
520 any provision of a local ordinance that establishes criteria and requirements for siting.

521 I. No locality shall adopt stormwater or erosion sediment control standards that are more stringent  
522 than state regulations unless such standards are adopted pursuant to applicable state law governing local  
523 programs.

524 **§ 15.2-2314.1. Critical interconnection project decisions; appeals.**

525 A. A locality shall make its final decision regarding any zoning change, variance, or the issuance  
526 of a special exemption, special use permit, or conditional use permit related to a critical interconnection  
527 project, as defined in § 45.2-1735, no later than 180 days after receiving a critical interconnection opinion  
528 issued by the Virginia Energy Facility Review Board (Review Board) pursuant to § 45.2-1739. For any  
529 such final decision that diverges from the Review Board's opinion, a locality shall include a written  
530 determination approved by the locality setting forth all facts and conclusions reached by the locality that

531 support its final decision. A locality's failure to make its final decision within the 180-day period, shall  
532 constitute a granting of the zoning change, variance, special exemption, special use permit, or conditional  
533 use permit related to a critical interconnection project.

534 B. Any appeal of a locality's decision related to a critical interconnection project shall be filed in  
535 the circuit court of such locality. Notwithstanding any other provision of law, general or special:

536 1. Such appeal shall be brought only by the aggrieved applicant or the owner of the property subject  
537 to a special exception pursuant to subsection F of § 15.2-2285 and no other person shall have standing to  
538 file such appeal or seek judicial review. In any such appeal, the opinion of the Review Board shall be  
539 presumed to be correct as it relates to the factors enumerated in subsection A of § 45.2-1739. Such  
540 presumption may be overcome by probative evidence demonstrating to the satisfaction of the court that  
541 the locality's decision to grant or deny a project or to include the challenged conditions was consistent  
542 with provisions in the locality's ordinance that are not unreasonable restrictions as defined in § 45.2-1735.

543 2. Any such appeal shall be given precedence on the docket and decided by the circuit court no  
544 later than 90 days from the date of service on all parties. All notices of such appeal shall be filed within  
545 five days. Any appeal of the decision by the circuit court to the Court of Appeals or the Supreme Court  
546 shall be given precedence on the docket and decided no later than 90 days after the petition for appeal is  
547 filed.

548 **§ 15.2-4209.1. Regional energy plan.**

549 By July 1, 2027, and every three years thereafter, each planning district commission shall adopt a  
550 regional energy plan to address energy generation, storage, and use that demonstrates a meaningful  
551 contribution to Commonwealth's energy goals as determined by the regional energy report issued by the  
552 Virginia Energy Facility Review Board and takes into account forecasted energy demand growth. Such  
553 regional energy plans shall be consistent with such regional energy report and the goals of the  
554 Commonwealth's Clean Energy Policy set out in § 45.2-1706.1. The planning district commission shall  
555 submit a copy of the adopted regional energy plan or any amendment to the regional energy plan to the  
556 Virginia Energy Facility Review Board.

557 Article 10.

558 Virginia Energy Facility Review Board.

559 **§ 45.2-1735. Definitions.**

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

561 "Critical interconnection project" means any solar energy project or energy storage project (i) with  
562 a rated capacity of at least 20 megawatts or with rated capacity of at least two megawatts if it is located  
563 on previously disturbed land such as a brownfield, landfill, abandoned mine, or parking lot or any facility  
564 that meets the requirements of a shared solar program pursuant to § 56-594.3 or 56-594.4, (ii) that is within  
565 3 miles of its point of interconnection, and (iii) that otherwise requires the approval of a zoning change,  
566 variance, or the issuance of a special exemption, special use permit, or conditional use permit from a  
567 locality.

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

569 "Energy storage facility" means energy storage equipment or technology that is capable of  
570 absorbing energy, storing such energy for a period of time, and redelivering such energy after it has been  
571 stored.

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

574 "Project of statewide significance" means any critical interconnection project that (i) is consistent  
575 with and advances the goals of the Commonwealth Clean Energy Policy; (ii) has a positive economic  
576 impact on the region in which the critical interconnection project is located; (iii) not in the 100-year  
577 floodplain, (iv) not on slopes greater than 20 percent, (v) is consistent with the goals of § 2.2-235; (vi)  
578 contributes to the Commonwealth meeting its statutory clean energy targets and projected generation  
579 needs; (vii) does not materially contribute to the Commonwealth's greenhouse gas emissions; (viii) has  
580 no material adverse effect upon the reliability of electric service; and (ix) does not violate tribal treaties,  
581 executive orders, judicial decisions, and other agreements that recognize tribal sovereignty authority.

582 "Review Board" means the Virginia Energy Facility Review Board established pursuant to this  
583 article.

584 "Solar energy facility" means a commercial solar photovoltaic generation facility.

585 "Solar energy project" means a solar energy facility located within the Commonwealth and  
586 includes interests in land, improvements, and ancillary facilities.

587 "Unreasonable restriction" means any (i) prohibition on solar energy facilities or energy storage  
588 facilities, (ii) provision or condition that has the effect of limiting the amount of land available for solar  
589 energy facilities or energy storage facilities to less than five percent of any zoning district; (iii) provision  
590 or condition that is more stringent than or in addition to those listed in the model ordinance adopted by  
591 the Review Board pursuant to § 45.2-1740; or (iv) provision or condition on solar energy facilities or  
592 energy storage facilities that limit the total amount, density, or size of such facilities in a manner that  
593 would prevent the county from achieving its meaningful contribution to clean energy.

594 **§ 45.2-1736. Virginia Energy Facility Review Board established; purpose.**

595 The Virginia Energy Facility Review Board is established as a political subdivision of the  
596 Commonwealth. The purpose of the Review Board is to conduct critical interconnection reviews, conduct  
597 analysis and study policy options, review regional energy plans, local comprehensive plans, and local  
598 solar and storage ordinances and to facilitate the responsible siting of critical interconnection projects in  
599 the Commonwealth. The Review Board may consult with state agencies, localities, planning district  
600 commissions, research institutions, businesses, nonprofit organizations, and stakeholders as the Review  
601 Board deems appropriate. The Review Board shall have only those powers enumerated in this article.

602 **§ 45.2-1737. Membership; terms; expenses; executive director.**

603 A. The Review Board shall have a total membership of nine members that shall consist of two  
604 nonlegislative citizen members and seven ex officio members as follows:

605 1. The Director of the Department of Energy or his designee. Any such designee shall be employed  
606 within the Department of Energy's Division of Renewable Energy and Energy Efficiency.

607 2. Director of the Department of Environmental Quality or his designee. Any such designee shall  
608 be employed within the Department of Environmental Quality's Air Division or Land and Waste Division.

609 3. The Attorney General or his designee. Any such designee shall be an attorney employed within  
610 the Department of Law's Division of Consumer Counsel.

611 4. The State Forester or his designee.

- 612           5. The Director of the Department of Conservation and Recreation or his designee;
- 613           6. The Chief Executive Officer of the Virginia Economic Development Partnership Authority or  
614 his designee;
- 615           7. The executive director of the Virginia Clean Energy Technical Assistance Center;
- 616           8. A representative of a regional solar energy or energy storage trade association, to be appointed  
617 by the Speaker of the House of Delegates; and
- 618           9. An individual with expertise in energy economics, grid reliability and ratepayer impacts, to be  
619 appointed by the Senate Committee on Rules.
- 620           Additionally, for any critical interconnection project review conducted pursuant to § 45.2-1739,  
621 the governing body of the relevant locality shall appoint two ad hoc members to serve with voting  
622 privileges on the Review Board for such critical interconnection project review.
- 623           B. The Review Board shall appoint from its membership a chairman and a vice-chairman, each of  
624 whom shall serve in such capacity at the pleasure of the Review Board. The chairman, or in his absence  
625 the vice-chairman, shall preside at each meeting of the Review Board. The meetings of the Review Board  
626 shall be held on the call of the chairman or whenever a majority of the members so request. A majority of  
627 members of the Review Board serving at any one time shall constitute a quorum for the transaction of  
628 business.
- 629           C. Members shall serve without compensation. However, all members may be reimbursed for all  
630 reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813  
631 and 2.2-2825. Such expenses shall be paid from funds appropriated to the Review Board by the General  
632 Assembly.
- 633           D. Members of the Review Board shall be subject to the standards of conduct set forth in the State  
634 and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for  
635 misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.
- 636           E. Except as otherwise provided in this article, members of the Review Board shall be subject to  
637 the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).



638 F. The Board shall appoint an executive director of the Review Board who shall serve at the  
639 pleasure of the Board and carry out such powers and duties conferred upon him by the Review Board.

640 **§ 45.2-1738. Powers and duties of the Review Board.**

641 In addition to other powers and duties established under this article, the Review Board shall have  
642 the power and duty to:

643 1. Issue opinions necessary to fulfill its obligations;

644 2. Review local and regional energy policies, ordinances, and plans for consistency with state  
645 energy policies;

646 3. Enter into agreements with state agencies, departments or consultants as needed to fulfill its  
647 obligations;

648 4. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial  
649 experts, academics, investment bankers, superintendents, managers, and any other employees and agents  
650 necessary and fix their compensation to be payable from funds made available to the Review Board;

651 5. Receive and accept from any federal or private agency, foundation, corporation, association, or  
652 person grants, donations of money, or real or personal property for the benefit of the Review Board, and  
653 receive and accept from the Commonwealth or any other state, from any municipality, county, or other  
654 political subdivision thereof, or from any other source, aid or contributions of either money, property, or  
655 other things of value, to be held, used, and applied for the purposes for which such grants and contributions  
656 may be made;

657 6. Do any lawful act necessary or appropriate to carry out the powers granted or reasonably implied  
658 in this article; and

659 7. Fix, alter, charge and collect fees from developers that apply for critical interconnection project  
660 Orders at a reasonable rate for the purpose of providing for the payment of the expenses of the Review  
661 Board. Such fees shall be in an amount sufficient to cover the costs of the Review Board.

662 **§ 45.2-1739. Critical interconnection project review.**

663 A. Any developer planning to construct a critical interconnection project shall file a critical  
664 interconnection project review application with the Review Board and shall comply with the provisions

665 of this article. The Review Board shall review each such application to determine if the critical  
666 interconnection project (i) qualifies as a project of statewide significance and (ii) complies with the  
667 ordinance in each locality in which the proposed critical interconnection project would be located. In  
668 making the determination of whether a project qualifies as a project of statewide significance, the Review  
669 Board shall consider the Commonwealth Clean Energy Policy, regulations adopted by the State Air  
670 Pollution Control Board pursuant to subsection E of § 10.1-1308, the requirements of § 56-585.5, and any  
671 other information it deems relevant. In making the determination of whether the project complies with a  
672 locality's ordinance for the permitting of a solar energy facility or energy storage facility, the Review  
673 Board shall have the discretion to disregard any unreasonable restriction in the local ordinance on the  
674 installation of the critical interconnection projects or the building of structures that facilitate the  
675 installation of critical interconnection projects. In addition, the Review Board may consider any regional  
676 energy plan developed by the relevant planning district commission.

677 B. A critical interconnection review application shall set forth and explain how the critical  
678 interconnection project (i) is a project of statewide significance; and (ii) complies with the ordinance in  
679 each locality in which the proposed critical interconnection project would be located. Upon receipt of a  
680 critical interconnection review application, the Review Board shall verify the developer has complied with  
681 the provision of subsection C. Confidential or proprietary information included in any application filed  
682 under this article, including any supporting documents or prefiled testimony, shall be exempt from  
683 disclosure pursuant to subdivision 36 of § 2.2-3705.6 of the Virginia Freedom of Information Act (§ 2.2-  
684 3700 et seq.).

685 C. Not less than 80 days prior to filing a critical interconnection project application, a developer  
686 shall file a notice of intent to file with every locality in which the proposed project or any portion of the  
687 proposed project shall be located. Such notice shall reasonably describe the nature of the project, the  
688 design of the project, the location of the project, and a brief description of the application information  
689 required by subsection B.

690 D. Within 20 days of receipt of any the critical interconnection project application, the Review  
691 Board shall (i) require that the developer provide notice to all adjacent landowners and publish notice in

692 a paper of general circulation for all impacted localities; (ii) hold a public meeting on the critical  
693 interconnection project application in each locality in which the project would be located and (iii) accept  
694 written public comments for no less than 30 days following the public meeting.

695 E. No later than 90 days following the receipt of the critical interconnection project application,  
696 the Review Board shall issue its critical interconnection project opinion and explain the basis for such  
697 opinion based on the criteria in this article. Such critical interconnection project opinion may recommend  
698 reasonable conditions the Review Board deems necessary for a proposed critical interconnection project  
699 to meet the objectives of this article, the Commonwealth Clean Energy Policy, and the provisions of §  
700 15.2-2316.7.

701 **§ 45.2-1740. Regional energy report and model local ordinance.**

702 A. By January 1, 2026, and every three years thereafter, the Review Board, in collaboration with  
703 the Virginia Clean Energy Technical Assistance Center, shall issue a regional energy report that models  
704 each planning district's meaningful annual contribution to clean energy generation, energy efficiency  
705 measures, and energy storage such that the requirements of § 56-585.5 regarding the renewable energy  
706 portfolio standard program and the deployment of zero-carbon electricity generating capacity and energy  
707 storage resources, the requirements of any regulations adopted by the Air Pollution Control Board in  
708 accordance with subsection E of § 10.1-1308, and the goals of the Commonwealth's Clean Energy Policy  
709 set out in § 45.2-1706.1 are met. The Department of Energy and any electric utility, as defined in § 56-  
710 576, shall, upon request, assist the Review Board in its development of such report.

711 B. By January 1, 2026, the Review Board, in collaboration with the Virginia Clean Energy  
712 Technical Assistance Center, shall establish a model local ordinance for siting, permitting, and zoning of  
713 critical interconnection projects and all other ground-mounted front-of-meter solar energy and energy  
714 storage projects. The model ordinance shall (i) address siting of solar energy and energy storage facilities  
715 in agricultural zones as wells as residential, industrial, and other zoning areas, including addressing project  
716 siting on previously developed project sites, rooftops, and through the practice of dual-use agricultural  
717 facilities (ii) offer guidance to facilitate variances including modified parameters (iii) facilitate the robust  
718 deployment of solar energy and energy storage facilities consistent with state energy goals and load growth

719 forecasts, and (iv) allow for localities to make unique decisions per their regional goals within a set range  
720 of values, on the following issues: setback requirements, fencing, project height, visual impacts, lighting,  
721 vegetation, wildlife, workforce, cultural and historic resources, and decommissioning. In developing the  
722 model ordinance, the Review Board shall convene a workgroup that includes representatives from the  
723 Department of Environmental Quality, the Department of Energy, organizations representing local  
724 governments and Planning District Commissions, the solar and storage industries, conservation groups  
725 representing land and water interests, climate advocacy groups, landowner advocacy groups, ratepayer  
726 advocates, and other interested stakeholders.

727 **§ 45.2-1741. Review of regional energy plans, comprehensive plan updates, and local**  
728 **ordinances.**

729 A. The Review Board shall review regional energy plans adopted pursuant to § 15.2-4209.1,  
730 updates to comprehensive plans adopted pursuant to subsection G of § 15.2-2233, and local ordinances  
731 adopted pursuant to subsection G of § 15.2-2288.7, and may provide recommendations or alternative  
732 regional plans, energy plans, or local ordinances to the planning district commission or locality.

733 B. The Review Board shall determine if a regional energy plan is compliant with the provisions of  
734 § 15.2-4209.1 and this article within 60 days of receipt of such plan. If the Review Board determines that  
735 the regional energy plan is not in compliance, the relevant planning district commission shall have 60 days  
736 to adopt a compliant regional energy plan. If the relevant planning district commission fails to adopt a  
737 compliant energy plan within the 60 days, the Review Board, within 90 days of such failure, shall issue  
738 an alternative regional energy plan that, notwithstanding any other provision of law, shall be in effect for  
739 such region.

740 C. The Review Board shall determine if a local ordinance is compliant with the provisions of §  
741 15.2-2288.7 and this article within 60 days of receipt of such local ordinance. If the Review Board  
742 determines that the local ordinance is not in compliance, the locality shall have 60 days to adopt a  
743 compliant local ordinance. Notwithstanding any other provision of law, general or special, if the locality  
744 fails to adopt a compliant local ordinance within the 60 days, the model local ordinance established by the  
745 Review Board pursuant to § 45.2-1740 shall be in effect for such locality.

746 D. A locality or a planning district commission may appeal a Review Board determination made  
747 pursuant to this section to the Court of Appeals and may appeal the decision of the Court of Appeals to  
748 the Supreme Court. Any such appeal shall be given precedence on the docket and decided no later than  
749 90 days after the petition for appeal is filed.

750 Article 11.

751 Virginia Clean Energy Technical Assistance Center.

752 **§ 45.2-1742. Virginia Clean Energy Technical Assistance Center established; board of**  
753 **directors.**

754 A. The Virginia Clean Energy Technical Assistance Center (the Center) is hereby established to  
755 include Christopher Newport University, George Mason University, James Madison University,  
756 Longwood University, the University of Mary Washington, Norfolk State University, Old Dominion  
757 University, Radford University, the University of Virginia, Virginia Commonwealth University, Virginia  
758 Military Institute, Virginia Polytechnic Institute and State University, Virginia State University, and The  
759 College of William and Mary in Virginia, and is to be located at the University of Virginia.

760 B. The Center shall be governed by a board of directors (the Board), which shall consist of 15  
761 voting members as follows: the executive director or his designee, the president of Christopher Newport  
762 University or his designee, the president of George Mason University or his designee, the president of  
763 James Madison University or his designee, the president of Longwood University or his designee, the  
764 president of the University of Mary Washington or his designee, the president of Norfolk State University  
765 or his designee, the president of Old Dominion University or his designee, the president of Radford  
766 University or his designee, the president of the University of Virginia or his designee, the president of  
767 Virginia Commonwealth University or his designee, the Superintendent of Virginia Military Institute, the  
768 president of Virginia Polytechnic Institute and State University or his designee, the president of Virginia  
769 State University or his designee, and the president of The College of William and Mary in Virginia or  
770 his designee.

771 C. The Board shall appoint an executive director to serve as the principal administrative officer of  
772 the Center. The executive director shall report to the Board and be under its supervision. The executive

773 director shall employ such personnel and secure such services as may be required to carry out the purposes  
774 of the Center, expend appropriated funds, and accept moneys from federal or private sources for carrying  
775 out the purposes of the Center.

776 **§ 45.2-1743. Functions, powers, and duties of the Center.**

777 A. The Center shall serve as an interdisciplinary study, research, and information resource and  
778 shall provide technical assistance to state agencies, planning district commissions, localities, the Virginia  
779 Energy Facility Review Board, other public bodies, and private entities in matters related to critical  
780 interconnection projects, as defined in § 45.2-1735. The Center shall conduct research and analysis  
781 relating to critical interconnection projects, including siting, permitting, development, financing, energy  
782 efficiency, economic development impact analysis, supply chain and manufacturing, and innovation and  
783 any other topics deemed necessary to advance the clean energy goals of the Commonwealth.

784 B. The Center shall collaborate with the Virginia Energy Facility Review Board to issue the  
785 regional energy report and to establish a model local ordinance related to critical interconnection projects  
786 as required by the provisions of § 45.2-1740.

787 C. The Center shall, upon request, provide technical assistance to any planning district commission  
788 developing its regional energy plan pursuant to § 15.2-4209.1 or any locality, in developing an energy  
789 plan as part of its comprehensive plan pursuant to subsection G of § 15.2-2233 or in adopting a local  
790 ordinance related to solar energy facilities and energy storage facilities pursuant to subsection G of § 15.2-  
791 2288.7.

792 D. The Center shall collaborate with the Department of Energy, the Department of Environmental  
793 Quality, or other state agencies or public institutions of higher education to provide technical assistance  
794 or engagement and planning for renewable energy facility siting, permitting, or project development  
795 through state or federally-funded programs established at any such agency or institution.

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