

SUMMARY

Virginia Energy Facility Review Board; established. Establishes the Virginia Energy Facility Review Board as a political subdivision of the Commonwealth for the purposes of conducting critical interconnection reviews, conduct analysis and study policy options, review regional energy plans, local comprehensive plans, and local solar and storage ordinances and to facilitate the responsible siting of critical interconnection projects in the Commonwealth. Under the bill, any developer planning to construct a critical interconnection project, defined in the bill, is required to submit an application to the Review Board. The Review Board is required to determine if the critical interconnection project (i) qualifies as a project of statewide significance, defined in the bill, and (ii) complies with the ordinance in each locality in which the proposed critical interconnection project would be located. In making its determination, the Review Board is required to consider the Commonwealth Clean Energy Policy, certain regulations adopted by the State Air Pollution Control Board, the certain renewable portfolio requirements, and any other information it deems relevant. The bill provides that the Review Board has the discretion to disregard any unreasonable restriction, defined in the bill, in the local ordinance on the installation of the critical interconnection projects or the building of structures that facilitate the installation of critical interconnection projects. In addition, the Review Board may consider any regional energy plan developed by the relevant planning district commission. The Review Board is required to issue its opinion on the critical interconnection project within 90 days of receiving an application.

The bill requires a locality to issue its final decision regarding any zoning change, variance, or the issuance of a special exemption, special use permit, or conditional use permit related to a critical interconnection project no later than 180 days after receiving a critical interconnection opinion issued by the Review Board. If the locality's final decision diverges from the Review Board's opinion, the locality is required to include a written determination setting forth all facts and conclusions reached by the locality that support its final decision. Under the bill, a locality's failure to make a final decision within the 180-day period, constitutes a granting of the zoning change, variance, special exemption, special use permit, or conditional use permit related to a critical interconnection project.

The bill requires that any appeal of a locality's decision related to a critical interconnection project will be filed in the circuit court of such locality. The bill provides that such appeal can be brought only by the aggrieved applicant or the owner of the property subject to a special exception pursuant to subsection F of § 15.2-2285 and no other person has standing to file such appeal or seek judicial review. Under the bill, in any such appeal, the opinion of the Review Board is presumed to be correct. Such presumption may be overcome by probative evidence demonstrating to the satisfaction of the court that the locality's decision to grant or deny a project or to include the challenged conditions was consistent with provisions in locality's ordinance that are not unreasonable restrictions.

The bill requires the Review Board to issue a regional energy report that models each planning district's meaningful annual contribution to clean energy generation, energy efficiency measures, and energy storage. Each planning district commission is required to adopt a regional energy plan to address energy generation, storage, and use that demonstrates a meaningful contribution to Commonwealth's energy goals as determined by the regional energy report issued by the Review Board and to submit the plan to the Review Board. The Review Board is required to determine if a regional energy plan is in compliance with certain provisions within 60 days of receipt of such plan. If the Review Board determines that the regional energy plan is not in compliance, the relevant planning district commission has 60 days to adopt a compliant regional energy plan. If the relevant planning district commission fails to adopt a compliant energy plan within the 60 days, the Review Board, within 90 days of such failure, is required to issue an alternative regional energy plan that is in effect for such region.

The bill requires the Review Board to establish a model local ordinance for siting, permitting, and zoning of critical interconnection projects and all other ground-mounted front-of-meter solar energy and energy storage projects. The bill requires each locality to adopt an ordinance for the permitting of solar energy facilities and energy storage facilities, that is consistent with the Commonwealth Clean Energy Policy and the model ordinance and submit it to the Review Board. Under the bill, the Review Board is required to determine if the local ordinance is compliant with certain requirements. If the Review Board determines that the local ordinance is not in compliance, the locality has 60 days to adopt a compliant local ordinance. If the locality fails to adopt a compliant local ordinance within the 60 days, the bill provides that the model local ordinance established is in effect for such locality. The bill provides a procedure for a planning district commission or a locality to appeal a Review Board determination regarding a regional energy plan or a local ordinance.

Finally, the bill establishes the Virginia Clean Energy Technical Assistance Center, consisting of public institutions of higher education, to serve as an interdisciplinary study, research, and information resource and to provide technical assistance to state agencies, planning district commissions, localities, the Review Board, other public bodies, and private entities in matters related to critical interconnection projects. The bill requires the Center to collaborate with the Review Board to issue the regional energy report and to establish the model local ordinance.