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SENATE BILL NO. 354

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations
on February 8, 2022)

(Patron Prior to Substitute—Senator Stuart)

A BILL to amend and reenact §§ 2, 3, and 4 of Chapter 634 of the Acts of Assembly of 2020, relating to James River watershed; timeline for compliance with regulations of certain combined sewer overflow outfalls.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2, 3, and 4 of Chapter 634 of the Acts of Assembly are amended and reenacted as follows:

§ 2. Any such owner or operator of a CSO system shall:

A. By July 1, 2022, initiate construction and related activities pursuant to the interim plan required in subsection A of § 1;

B. By July 1, ~~2025~~ 2024, initiate construction and related activities pursuant to the final plan required in subsection B of § 1;

C. By July 1, ~~2027~~ 2026, complete construction and related activities pursuant to the interim plan required in subsection A of § 1;

D. By July 1, ~~2030~~ 2028, identify any additional action that is applicable to the owner or operator of a CSO system and is necessary to meet, by ~~2036~~ 2030, the requirements of the total maximum daily load (TMDL) for bacterial impairments of the James River and its tributaries in the Richmond area, as described in the implementation plan for such TMDL issued by the Department in 2011; and

E. By July 1, ~~2035~~ 2030, complete construction and related activities pursuant to the final plan required in subsection B of § 1.

§ 3. Any such owner or operator of a CSO system shall report annually to the Department on its progress pursuant to § 1 and § 2, with the first annual report due no later than December 1, 2020, and the final annual report due after completion of (i) the construction activities pursuant to the final plan required in subsection B of § 1 and (ii) additional actions identified in subsection D of § 2. The report, which may be included as part of any annual report required under a consent special order issued by the Department to the owner or operator regarding the CSO system, shall include information on the level and sources of funding and financing such owner or operator has applied to the CSO system in each of the past five fiscal years *and its impact on ratepayers, particularly economically disadvantaged ratepayers*, as well an assessment of funding needs in future years, *including the projected impact of funding needs on ratepayers, particularly economically disadvantaged ratepayers*, with a request that ~~appropriation~~ *appropriations for non-matching grant* amounts sufficient to carry out the purposes of this act be included in the budget bill. No later than ~~January~~ *September* 1 of each year, the Department shall transmit, with any additional information the Director of the Department determines to be appropriate, the CSO system progress reports to the Chairmen of the Senate Committee on Finance and Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, and the House Committee on Agriculture, Chesapeake and Natural Resources; the Virginia delegation to the Chesapeake Bay Commission; the Secretary of Natural Resources; ~~and the Governor; and the chief administrative officer of the owner or operator.~~ The Department may recommend extending the deadlines in § 2 to allow adaptive management by the owner or operator due to a natural disaster or other act of God, ~~or~~ *because of a lack of available funding and financing, or because of an adverse impact on ratepayers, particularly economically disadvantaged ratepayers.*

§ 4. The Governor shall take into account the reports required in § 3 during the preparation of the biennial budget bill and subsequent amendments thereto. The General Assembly may take such reports into account in enacting the general appropriation act and may evaluate the feasibility of the deadlines in § 2 on a biennial basis beginning in 2022 and modify such deadlines as necessary, taking into account any potential adverse effects on (i) the owner's or operator's bond rating; (ii) the utility rates, fees, or charges assessed by the owner or operator; (iii) any environmental justice community, or owner's or operator's customers living below the federal poverty level; or (iv) any other relevant aspect of the owner's or operator's operations. No sooner than July 1, ~~2025~~ 2024, and no more frequently than every two years thereafter, the owner or operator may petition the Board for, and the Board ~~may~~ *shall* grant, an extension to one or more of the deadlines in § 2 if the Board determines that (a) the General Assembly has not extended such deadline and (b) ~~funding state or federal grant funding in an amount~~ *sufficient to meet such deadline without an adverse impact on ratepayers, particularly economically disadvantaged ratepayers*, has not been secured and the owner or operator has exhausted all reasonable

60 options for securing such funding.