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SENATE BILL NO. 489

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 10.1-2128 and 62.1-44.15:29.1, as it shall become effective, of the Code of Virginia, relating to water quality funds; localities in fiscal stress.

Patron—McClellan

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2128 and 62.1-44.15:29.1, as it shall become effective, of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2128. Virginia Water Quality Improvement Fund established; purposes.

A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which shall include, unless otherwise provided in the general appropriation act, 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and 10 percent of any unrestricted and uncommitted general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. Except as otherwise provided under this article, the purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, state agencies, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency; however, nothing in this section shall be construed to prevent the award of a Water Quality Improvement Grant to a local government in connection with point or nonpoint pollution prevention, reduction and control programs or efforts undertaken on land owned by the Commonwealth and leased to the local government. In keeping with the purpose for which the Fund is created, it shall be the policy of the General Assembly to provide annually its share of financial support to qualifying applicants for grants in order to fulfill the Commonwealth's responsibilities under Article XI of the Constitution of Virginia.

C. For the fiscal year beginning July 1, 2005, \$50 million shall be appropriated from the general fund and deposited into the Fund. Except as otherwise provided under this article, such appropriation and any amounts appropriated to the Fund in subsequent years in addition to any amounts deposited to the Fund pursuant to the provisions of subsection A shall be used solely to finance the costs of design and installation of nutrient removal technology at publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers for compliance with the effluent limitations for total nitrogen and total phosphorus of the Chesapeake Bay TMDL Watershed Implementation Plan or applicable regulatory or permit requirements. Notwithstanding the provisions of this section, the Governor and General Assembly may, at any time, provide additional funding for nonpoint source pollution reduction activities through the Fund in excess of the deposit required under subsection A.

At such time as grant agreements specified in § 10.1-2130 have been signed by every significant discharger and eligible nonsignificant discharger and available funds are sufficient to implement the provisions of such grant agreements, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance and Appropriations shall review the

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59 financial assistance provided under this section and determine (i) whether such deposits should continue
60 to be made, (ii) the size of the deposit to be made, (iii) the programs and activities that should be
61 financed by such deposits in the future, and (iv) whether the provisions of this section should be
62 extended.

63 *D. 1. To the maximum extent practicable, no less than 25 percent of the total dollar amount of the*
64 *grant agreements entered into by the Department of Conservation and Recreation pursuant to this*
65 *chapter in each fiscal year shall be for projects in localities identified as having high or above average*
66 *fiscal stress in the most recent Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal*
67 *Stress of Virginia's Cities and Counties as prepared by the Commission on Local Government.*

68 *2. To the maximum extent practicable, no less than 25 percent of the total dollar amount of the*
69 *grant agreements entered into by the Department of Environmental Quality pursuant to this chapter in*
70 *each fiscal year shall be for projects in localities identified as having high or above average fiscal*
71 *stress in the most recent Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of*
72 *Virginia's Cities and Counties as prepared by the Commission on Local Government.*

73 *3. Nothing in this subsection shall be construed to prohibit the Director of the Department of*
74 *Environmental Quality from entering into a grant agreement as required pursuant to subsection B of*
75 *§ 10.1-2131 or for the design and installation of nutrient removal technology at the publicly owned*
76 *treatment works identified in § 10.1-1186.01.*

77 **§ 62.1-44.15:29.1. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by**
78 **Acts 2017, c. 345) Stormwater Local Assistance Fund.**

79 A. The State Comptroller shall continue in the state treasury the Stormwater Local Assistance Fund
80 (the Fund) established by Chapter 806 of the Acts of Assembly of 2013, which shall be administered by
81 the Department. All civil penalties and civil charges collected by the Board pursuant to §§
82 62.1-44.15:25, 62.1-44.15:48, 62.1-44.15:63, and 62.1-44.15:74, subdivision (19) of § 62.1-44.15, and
83 § 62.1-44.19:22 shall be paid into the state treasury and credited to the Fund, together with such other
84 funds as may be made available to the Fund, which shall also receive bond proceeds from bonds
85 authorized by the General Assembly, sums appropriated to it by the General Assembly, and other grants,
86 gifts, and moneys as may be made available to it from any other source, public or private. Interest
87 earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in
88 the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund
89 but shall remain in the Fund.

90 B. The purpose of the Fund is to provide matching grants to local governments for the planning,
91 design, and implementation of stormwater best management practices that address cost efficiency and
92 commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to
93 meet (i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements, (ii)
94 requirements for local impaired stream TMDLs, (iii) water quality measures of the Chesapeake Bay
95 Watershed Implementation Plan, and (iv) water quality requirements related to the permitting of small
96 municipal separate storm sewer systems. The grants shall be used solely for stormwater capital projects,
97 including (a) new stormwater best management practices, (b) stormwater best management practice
98 retrofitting or maintenance, (c) stream restoration, (d) low-impact development projects, (e) buffer
99 restoration, (f) pond retrofitting, and (g) wetlands restoration. Such grants shall be made in accordance
100 with eligibility determinations made by the Department pursuant to criteria established by the Board.
101 Grants awarded for projects related to Chesapeake Bay TMDL requirements may take into account total
102 phosphorus reductions or total nitrogen reductions. Grants awarded for eligible projects in localities with
103 high or above average fiscal stress as reported by the Commission on Local Government may account
104 for more than 50 percent of the costs of a project.

105 C. Moneys in the Fund shall be used solely for the purpose set forth herein and disbursements from
106 it shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
107 signed by the Director.

108 *D. To the maximum extent practicable, no less than 25 percent of the total dollar amount of the*
109 *grants awarded in each fiscal year shall be for projects in localities identified as having high or above*
110 *average fiscal stress in the most recent Report on Comparative Revenue Capacity, Revenue Effort, and*
111 *Fiscal Stress of Virginia's Cities and Counties as prepared by the Commission on Local Government.*