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SENATE BILL NO. 532

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact §§ 10.1-603.25 and 45.2-1701.1 of the Code of Virginia and to repeal Article 4 (§§ 10.1-1329, 10.1-1330, and 10.1-1331) of Chapter 13 of Title 10.1 of the Code of Virginia, relating to repeal of the Clean Energy and Community Flood Preparedness Act.*

Patrons—Stuart and Ruff

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.25 and 45.2-1701.1 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.25. Virginia Community Flood Preparedness Fund; loan and grant program.

A. The Virginia Shoreline Resiliency Fund is hereby continued as a permanent and perpetual fund to be known as the Virginia Community Flood Preparedness Fund. All sums that are designated for deposit in the Fund from revenue generated by the sale of emissions allowances pursuant to subdivision C 4 of § 10.1-1330, all sums that may be appropriated to the Fund by the General Assembly, all receipts by the Fund from the repayment of loans made by it to local governments, all income from the investment of moneys held in the Fund, and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law, shall be designated for deposit to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including any appropriated funds and all principal, interest accrued, and payments, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All loans and grants provided under this article shall be deemed to promote the public purposes of enhancing flood prevention or protection and coastal resilience.

B. Moneys in the Fund shall be used solely for the purposes of enhancing flood prevention or protection and coastal resilience as required by this article. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article in accordance with a memorandum of agreement with the Department. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund. The Department shall direct distribution of loans and grants from the Fund in accordance with the provisions of subsection D.

C. The Authority is authorized at any time and from time to time to pledge, assign, or transfer from the Fund or any bank or trust company designated by the Authority any or all of the assets of the Fund to be held in trust as security for the payment of principal of, premium, if any, and interest on any and all bonds, as defined in § 62.1-199, issued to finance any flood prevention or protection project undertaken pursuant to the provisions of this article. In addition, the Authority is authorized at any time and from time to time to sell upon such terms and conditions as the Authority deems appropriate any loan or interest thereon made pursuant to this article. The net proceeds of the sale remaining after payment of costs and expenses shall be designated for deposit to, and become part of, the Fund.

D. The Fund shall be administered by the Department as prescribed in this article. The Department, in consultation with the Secretary of Natural and Historic Resources and the Special Assistant to the Governor for Coastal Adaptation and Protection, shall establish guidelines regarding the distribution and prioritization of loans and grants, including loans and grants that support flood prevention or protection studies of statewide or regional significance.

E. Localities shall use moneys from the Fund primarily for the purpose of implementing flood prevention and protection projects and studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund may be used to mitigate future flood damage and to assist inland and coastal communities across the Commonwealth that are subject to recurrent or repetitive flooding. No less than 25 percent of the moneys disbursed from the Fund each year shall be used for projects in low-income geographic areas. Priority shall be given to projects that implement community-scale hazard mitigation activities that use nature-based solutions to reduce flood risk.

F. Any locality is authorized to secure a loan made pursuant to this section by placing a lien up to the value of the loan against any property that benefits from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to the prior lienholder in its sole and

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59 exclusive discretion, that is recorded in the land records where the property is located.

60 G. Any locality using moneys in the Fund to provide a loan for a project in a low-income
61 geographic area is authorized to forgive the principal of such loan. If a locality forgives the principal of
62 any such loan, any obligation of the locality to repay that principal to the Commonwealth shall not be
63 forgiven and such obligation shall remain in full force and effect. The total amount of loans forgiven by
64 all localities in a fiscal year shall not exceed 30 percent of the amount appropriated in such fiscal year
65 to the Fund by the General Assembly.

66 **§ 45.2-1701.1. Public disclosure of certain electric generating facility closures.**

67 A. The provisions of this section shall apply to any electric generating facility that:

- 68 1. Has a nameplate generating capacity of 80 megawatts or more;
- 69 2. Is located in the Commonwealth;
- 70 3. Emits carbon dioxide as a byproduct of combusting fuel, whether or not certificated by the State
71 Corporation Commission pursuant to subsection D of § 56-580; and
- 72 4. Is subject to, and not exempt from, regulations adopted pursuant to subsection E of § 10.1-1308 or
73 § 10.1-1330.

74 B. Within 30 days of an owner of an electric generating facility making public the decision to close
75 such facility, or within 30 days of the owner of an electric generating facility making a filing with the
76 U.S. Securities and Exchange Commission regarding a material impact to the cost, operations, or
77 financial condition of the owner, which material impact is a direct precursor to the closure of the
78 electric generating facility, the owner shall send a written notice of the impending closure to:

- 79 1. The governing body of the locality where the facility is located;
- 80 2. The governing body of any locality adjoining the locality where the facility is located;
- 81 3. Any town council located within a county described in subdivision 1;
- 82 4. Any planning district commission of any locality described in subdivision 1 or 2;
- 83 5. The State Corporation Commission Division of Public Utility Regulation;
- 84 6. The Department and the Division;
- 85 7. The Department of Housing and Community Development;
- 86 8. PJM Interconnection, LLC;
- 87 9. The Virginia Employment Commission;
- 88 10. The Department of Environmental Quality; and
- 89 11. The Virginia Council on Environmental Justice.

90 C. The notice required by subsection B shall include, at a minimum, (i) the anticipated closure date
91 of the facility; (ii) references to any website maintained by the owner containing closure information;
92 (iii) a list of permits obtained from a local government, the State Air Pollution Control Board, the State
93 Water Control Board, or the Department of Environmental Quality, including the permit number and
94 date of issuance; (iv) anticipated future use of the facility site, if known; (v) workforce transition
95 assistance information; and (vi) decommissioning information. If the owner of the facility is a registrant
96 with the U.S. Securities and Exchange Commission, any filings mentioning the impending closure shall
97 also be included with the notice.

98 D. In the six months following receipt of the notice required by subsection B, the governing body of
99 the locality where the facility is located shall conduct at least three public hearings, which may be part
100 of a regular meeting agenda, where at least one representative of the owner of the facility being closed
101 shall be present, make a presentation regarding the impending closure, and take questions from the
102 governing body and the public.

103 E. In the six months following receipt of the notice required by subsection B, the planning district
104 commission of the locality where the facility is located shall conduct at least one public hearing, which
105 may be part of a regular meeting agenda, where at least one representative of the owner of the facility
106 being closed shall be present, make a presentation regarding the impending closure, and take questions
107 from the planning district commission and the public.

108 F. The Division shall maintain a public website listing the facilities subject to this section and their
109 anticipated closure dates, if such dates are reasonably known by virtue of the laws of the
110 Commonwealth or a public record or filing with an agency of the Commonwealth, including the State
111 Corporation Commission, and a link shall be provided to the facilities' environmental protection or
112 remediation obligations included in permits obtained from the Department, State Air Pollution Control
113 Board, State Water Control Board, Department of Environmental Quality, or local governing body. At
114 least every 12 months, the State Corporation Commission shall transmit to the Division any information
115 that it reasonably believes would necessitate updates to the anticipated closure dates or other information
116 contained on the Division's website.

117 G. As providing advance notice to affected communities of an impending closure of a facility under
118 this section is a matter of vital importance for public policy, this section shall be liberally construed.
119 The obligations imposed on agencies of the Commonwealth under this section are to be construed in
120 favor of public disclosure of the information required by subsection F.

121 H. Notwithstanding the provisions of subsection A, the provisions of this section shall not apply to
122 any electric generating facility that has a nameplate generating capacity of 90 megawatts or less and that
123 filed a deactivation notice with PJM Interconnection, LLC, prior to September 1, 2019.
124 2. That Article 4 (§§ 10.1-1329, 10.1-1330, and 10.1-1331) of Chapter 13 of Title 10.1 of the Code
125 of Virginia is repealed.
126 3. That the Director of the Department of Environmental Quality shall take all steps necessary to
127 suspend the Commonwealth's participation in the auction program to sell allowances into a
128 market-based trading program consistent with the Regional Greenhouse Gas Initiative.