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HOUSE BILL NO. 1164

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Conservation and Natural Resources)

(Patron Prior to Substitute—Delegate Albo)

House Amendments in [] — February 12, 2000

A BILL to amend and reenact §§ 10.1-1018 through 10.1-1021 and 10.1-1024 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1021.1 and by adding in Chapter 10.2 of Title 10.1 a section numbered 10.1-1026, relating to the Virginia Land Conservation Foundation.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1018 through 10.1-1021 and 10.1-1024 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1021.1 and by adding in Chapter 10.2 of Title 10.1 a section numbered 10.1-1026 as follows:

§ 10.1-1018. Virginia Land Conservation Board of Trustees.

A. The Foundation shall be governed and administered by a Board of Trustees, consisting of the Secretary of Natural Resources, the State Treasurer or his designee, and seven trustees from the Commonwealth at large. Three of the trustees-at-large shall be appointed by the Governor, subject to confirmation by the General Assembly; two shall be appointed by the Speaker of the House of Delegates; and two shall be appointed by the Senate Committee on Privileges and Elections. The trustees-at-large. The Board shall include one member from each congressional district, appointed by the Governor, and five members appointed from the Commonwealth at large, [~~three~~ four] by the Speaker of the House of Delegates and two by the Senate Committee on Privileges and Elections. Such members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms which expire in the same year. Such members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. The trustees-at-large shall initially be appointed for terms of office as follows: two for a term of two years, two for a term of three years, and three for a term of four years. Appointments thereafter shall be made for four-year terms. trustee-at-large No such member shall be eligible to serve more than two consecutive four-year terms. All trustees-at-large Such members shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office. Appointments to fill vacancies shall be made for the unexpired term.

B. The Secretary of Natural Resources or his designee shall also serve on the Board of Trustees. The terms term of the Secretary of Natural Resources and the State Treasurer or their designees or his designee shall be coincident with that of the Governor. Appointments to fill vacancies shall be made for the unexpired term.

B. The Secretary of Natural Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The trustees-at-large members appointed as provided in subsection A shall elect a vice-chairman annually from the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman.

C. Trustees of the Foundation shall receive no compensation for their services but shall receive reimbursement for actual expenses incurred in the performance of their duties on behalf of the Foundation.

D. The chairman of the Board, the State Treasurer, and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees: the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and Consumer Services, the State Forester, the Director of the Department of Historic Resources, the Director of the Department of Game and Inland Fisheries and the Executive Director of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or appoint a designee to serve on the task force.

§ 10.1-1019. Executive secretary; land management.

A. The Director of the Department of Conservation and Recreation shall serve as executive secretary

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60 to the Foundation and shall be responsible for the performance of the providing technical assistance and
61 performing any administrative duties that the Foundation may direct.

62 *B. The Department of Conservation and Recreation shall administer the Foundation's lands as if*
63 *such lands were departmental lands, and the regulations established by the Director for the management*
64 *and protection of departmental lands shall apply to real estate held by the Foundation. The*
65 *Department's conservation officers commissioned under § 10.1-115 shall have jurisdiction on all of the*
66 *Foundation's lands and waters.*

67 § 10.1-1020. Virginia Land Conservation Fund; purposes of Foundation.

68 A. The Foundation shall establish, administer, manage, including the creation of reserves, and make
69 expenditures and allocations from a special, nonreverting fund in the state treasury to be known as the
70 Virginia Land Conservation Fund, hereinafter referred to as the Fund. The Foundation shall establish and
71 administer the Fund solely for the purposes of:

72 1. ~~Purchasing~~ Acquiring fee simple title to or other rights, interests or privileges in property for the
73 protection or preservation of ecological, cultural or historical resources, lands for recreational purposes,
74 state forest lands, and lands for threatened or endangered species, fish and wildlife habitat, natural areas,
75 agricultural and forestal lands and open space; and

76 2. Providing grants to state agencies, including the Virginia Outdoor Foundation, and matching
77 grants to other public bodies and holders as defined in § 10.1-1009 and public bodies as defined in
78 § 10.1-1700, for ~~purchasing~~ acquiring fee simple title to or other rights, interests or privileges in real
79 property for the protection or preservation of ecological, cultural or historical resources, lands for
80 recreational purposes, and lands for threatened or endangered species, fish and wildlife habitat, natural
81 areas, agricultural and forestal lands and open space.

82 *Interests in land acquired as provided in subdivision 1 of this subsection may be held by the*
83 *Foundation or transferred to state agencies or other appropriate holders. Whenever a holder acquires*
84 *any interest in land other than a fee simple interest as a result of a grant or transfer from the*
85 *Foundation, such interest shall be held jointly by the holder and a public body. Whenever a holder*
86 *acquires a fee simple interest in land as a result of a grant or transfer from the Foundation, a public*
87 *body shall hold an open space easement in such land.*

88 B. The Fund shall consist of general fund moneys and gifts, endowments or grants from the United
89 States government, its agencies and instrumentalities, and funds from any other available sources, public
90 or private. Such moneys, gifts, endowments, grants or funds from other sources may be either restricted
91 or unrestricted. For the purposes of this chapter, "restricted funds" shall mean those funds received by
92 the Board to which specific conditions apply; "restricted funds" shall include, but not be limited to,
93 general obligation bond moneys and conditional gifts. "Unrestricted funds" shall mean those received by
94 the Foundation to which no specific conditions apply; "unrestricted funds" shall include, but not be
95 limited to, moneys appropriated to the Fund by the General Assembly to which no specific conditions
96 are attached and unconditional gifts.

97 C. ~~After~~ After an allocation for administrative expenses has been made as provided in subsection F,
98 the remaining unrestricted funds in the Fund shall be allocated as follows:

99 1. Twenty-five percent shall be transferred to the Open-Space Lands Preservation Trust Fund to be
100 used as provided in § 10.1-1801.1; and

101 2. Seventy-five percent shall be divided equally among the following four uses: (i) ~~twenty-five~~
102 ~~percent~~ to natural area protection; (ii) ~~twenty-five percent~~ to open spaces and parks; (iii) ~~twenty-five~~
103 ~~percent~~ to farmlands and forest preservation; and (iv) ~~twenty-five percent~~ to historic area preservation.
104 *Of the amount allocated as provided in this subdivision, at least one third shall be used to secure*
105 *easements to be held or co-held by a public body.*

106 D. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall
107 not revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds
108 shall remain in the Fund and be credited to it.

109 E. A portion of the Fund, not to exceed twenty percent of the annual balance of unrestricted funds,
110 may be used to develop properties [~~managed by the Department of Conservation and Recreation and~~
111 ~~those properties~~] purchased in fee simple with the assets of the Fund for public use including, but not
112 limited to, development of trails, parking areas, infrastructure, and interpretive projects or to conduct
113 environmental assessments or other preliminary evaluations of properties prior to the acquisition of any
114 property interest.

115 F. Up to \$ 250,000 per year of the interest generated by the Fund may be used for the Foundation's
116 administrative expenses, including, but not limited to, the expenses of the Board and its members,
117 development of the Foundation's strategic plan, development and maintenance of an inventory of
118 properties as provided in subdivision 1 b of § 10.1-1021, development of a needs assessment for future
119 expenditures as provided in subdivision 1 c of § 10.1-1021, and fulfillment of reporting requirements. All
120 such expenditures shall be subject to approval by the Board of Trustees.

121 F. G. The State Treasurer Comptroller shall maintain the restricted funds and the unrestricted funds

in separate accounts.

H. For the purposes of this section, "public body" shall have the meaning ascribed to it in § 10.1-1700, and "holder" shall have the meaning ascribed to it in § 10.1-1009.

§ 10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish criteria for the expenditure of such moneys. The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include:

(i) The ecological, outdoor recreational, historic, agricultural and forestal value of the property;

(ii) An assessment of market values;

(iii) Consistency with local comprehensive plans;

(iv) Geographical balance of properties and interests in properties to be purchased;

(v) Availability of public and private matching funds to assist in the purchase;

(vi) Imminent danger of loss of natural, outdoor, recreational or historic attributes of a significant portion of the land;

(vii) Economic value to the locality and region attributable to the purchase; and

(viii) Advisory opinions from local governments, state agencies or others;

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following:

(i) Virginia Outdoors Plan, (ii) Virginia Natural Heritage Plan, (iii) Virginia Institute of Marine Science

Inventory, (iv) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and

(v) Virginia Board of Historic Resources Inventory. *In addition, the Board shall consider any*

information submitted by the Department of Agriculture and Consumer Services on farmland

preservation priorities and any information submitted by the Department of Forestry on forest land

initiatives and inventories; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of § 10.1-1022.

3. To submit a report biennially on the status of the Fund to the Governor and the General Assembly including, but not limited to, (i) implementation of its strategic plan, (ii) projects under consideration for acquisition with Fund moneys and (iii) expenditures from the Fund, *including a description of the extent to which such expenditures have achieved a fair geographic distribution of land protected as provided in § 10.1-1021.1.*

4. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

5. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of § 10.1-1020.

6. *To sell, exchange or otherwise dispose of or invest as it deems proper the moneys, securities, or other real or personal property or any interest therein given or bequeathed to it, unless such action is restricted by the terms of a gift or bequest. However, the provisions of § 10.1-1704 shall apply to any diversion from open-space use of any land given or bequeathed to the Foundation.*

7. *To conduct fund-raising events as deemed appropriate by the Board of Trustees.*

8. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.

§ 10.1-1021.1. *Geographic distribution of land protected.*

The Foundation shall seek to achieve a fair distribution of land protected throughout the Commonwealth, based upon the following:

1. *The importance of conserving land in all regions of the Commonwealth;*

2. *The importance of protecting specific properties that can benefit all Virginia citizens; and*

3. *The importance of addressing the particular land conservation needs of areas of the state where Fund moneys are generated.*

§ 10.1-1024. Gifts and bequests to Foundation.

Gifts, devises and bequests of money, securities and other assets ~~to the Fund~~ *accepted by the Foundation, whether personal or real property,* shall be deemed to be gifts ~~for~~ *to* the Commonwealth,

183 ~~and the Fund~~ which shall be exempt from all state and local taxes *and shall be regarded as property of*
184 *the Commonwealth for the purposes of all tax laws.*

185 *§ 10.1-1026. Cooperation of state agencies.*

186 *All state officers, agencies, commissions, boards, departments, institutions and foundations shall*
187 *cooperate with and assist the Foundation in carrying out its purpose and, to that end, may accept any*
188 *gift or conveyance of real property or interest therein or other property in the name of the*
189 *Commonwealth from the Foundation. Such property shall be held in possession or used as provided in*
190 *the terms of the trust, contract or instrumentality by which it was conveyed.*

191 **2. That the provisions of this act shall not affect current members of the Virginia Land**
192 **Conservation Board of Trustees whose terms have not expired as of July 1, 2000.**