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SENATE BILL NO. 460

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 9, 2002)

(Patron Prior to Substitute—Senator Hawkins)

A BILL to amend the Code of Virginia by adding in Title 62.1 a chapter numbered 5.4, consisting of sections numbered 62.1-69.34 through 62.1-69.43, relating to the establishment of the Roanoke River Basin Bi-State Commission and the Virginia Roanoke River Basin Advisory Committee.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 62.1 a chapter numbered 5.4, consisting of sections numbered 62.1-69.34 through 62.1-69.43, as follows:

CHAPTER 5.4.

ROANOKE RIVER BASIN BI-STATE COMMISSION.

§ 62.1-69.34. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Basin" means the Roanoke River Basin.

"Roanoke River Basin" means that land area designated as the Roanoke River Basin by the Virginia State Water Control Board, pursuant to § 62.1-44.38, and the North Carolina Department of Environment and Natural Resources.

§ 62.1-69.35. Roanoke River Basin Bi-State Commission established; purpose.

The Roanoke River Basin Bi-State Commission is hereby established as a bi-state commission composed of members from the Commonwealth of Virginia and the State of North Carolina and hereinafter referred to as the Commission. The Commission shall:

1. Provide guidance, conduct joint meetings, and make recommendations to local, state and federal legislative and administrative bodies, and to others as it deems necessary and appropriate, regarding the use, stewardship, and enhancement of the Basin's water and other natural resources;

2. Provide a forum for discussion of issues affecting the Basin's water quantity, water quality, and other natural resources;

3. Promote communication, coordination and education among stakeholders within the Basin;

4. Identify Basin-related problems and recommend appropriate solutions; and

5. Undertake studies and prepare, publish, and disseminate information through reports, and other communications, related to water quantity, water quality and other natural resources of the Basin.

§ 62.1-69.36. Roanoke River Basin Bi-State Commission powers and duties.

A. The Commission shall have no regulatory power.

B. To perform its duties and objectives, the Commission shall have the power to:

1. Develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, selecting a chairman and vice-chairman, rotating chairmanships, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the Commission members;

2. Establish standing and ad hoc advisory committees, which shall be constituted in a manner to ensure a balance between recognized interests. The purpose of each advisory committee shall be determined by the Commission;

3. Seek, apply for, accept and expend gifts, grants and donations, services and other aid from public or private sources. With the exception of funds provided by the planning district commissions and funds appropriated by the General Assemblies of Virginia and North Carolina, the Commission may accept funds only after an affirmative vote by a majority of the members of the Commission or by following such other procedures as may be established by the Commission for the conduct of its business;

4. Establish a nonprofit corporation to assist in the details of administering its affairs and in raising funds;

5. Enter into contracts and execute all instruments necessary or appropriate; and

6. Perform any lawful acts necessary or appropriate for the furtherance of its work.

§ 62.1-69.37. Membership; terms of office; eligibility for appointment.

A. The Commission shall be composed of eighteen voting members with each state appointing nine members. The Virginia delegation shall be appointed as follows: two members of the Senate, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Senate Committee on Privileges and Elections; four members of the House of Delegates, whose districts include a part of the Virginia portion of the Roanoke River Basin, to be appointed by the Speaker of the House, in accordance with the principles of proportional representation contained in the Rules of the

60 House of Delegates; and three members of the Virginia Roanoke River Basin Advisory Committee, who
61 represent different geographical areas of the Virginia portion of the Roanoke River Basin, to be
62 appointed by the Governor of Virginia. The North Carolina delegation to the Commission shall be
63 appointed as determined by the State of North Carolina. All members appointed to the Commission by
64 the Commonwealth of Virginia and the State of North Carolina shall reside within the Basin's
65 watershed.

66 B. The terms of office for appointed members shall be two years, unless the member is reappointed
67 by the appointing authorities of each state. Appointments to fill vacancies shall be made for the
68 unexpired terms. Vacancies shall be filled in the same manner as the original appointment. Members of
69 the Senate of Virginia and the Virginia House of Delegates, the North Carolina House of
70 Representatives and Senate, and federal legislators, who have not been appointed to the Commission
71 and whose districts include any portion of the Basin, may serve as nonvoting ex officio members of the
72 Commission. State and federal legislators and local government officials, whether appointed or ex
73 officio, shall serve terms coincident with their terms of office.

74 C. Each state's delegation to the Commission may meet separately to discuss Basin-related issues
75 affecting their state, and may report their findings independently of the Commission.

76 § 62.1-69.38. Standing and ad hoc committees.

77 To facilitate communication among stakeholders in the Roanoke River Basin, and to maximize
78 participation by all interested parties, the Commission shall establish both standing and ad hoc
79 committees. The Commission shall appoint the members of the standing and ad hoc committees, in
80 accordance with guidelines adopted by the Commission. The standing committees shall include, but not
81 be limited to, the following:

82 1. Permit holders. The Commission shall identify those entities that hold permits issued by a federal,
83 state or local regulatory agency pertaining to the water of the Basin. Such entities may recommend a
84 representative to be appointed to the committee by the Commission;

85 2. Roanoke River Basin interest groups. The Commission shall identify interest groups that may
86 recommend a representative to be appointed to the committee by the Commission;

87 3. Public officials and government entities. The committee shall be composed of representatives of
88 each county, city and town located completely or partially within the Basin, and any other governmental
89 entities that the Commission deems appropriate may recommend one member to be appointed to the
90 committee by the Commission. The committee may also include the U.S. Senators from Virginia and
91 North Carolina or their designees, and any member of the U.S. House of Representatives or his
92 designee, whose district includes any portion of the Basin, if such members elect to serve on the
93 committee; and

94 4. Agriculture, forestry and soil and water conservation districts. The Commission shall identify
95 persons who represent agricultural and forestry interests throughout the Basin and representatives from
96 the soil and water conservation districts within the Basin and shall appoint representatives from these
97 groups to the committee.

98 § 62.1-69.39. Staffing and support.

99 The Virginia Department of Environmental Quality and the North Carolina Department of
100 Environment and Natural Resources shall provide staff support to the Commission. Additional staff may
101 be hired or contracted by the Commission through funds raised by or provided to it. The duties and
102 compensation of such additional staff shall be determined and fixed by the Commission, within available
103 resources.

104 All agencies of the Commonwealth of Virginia and the State of North Carolina shall cooperate with
105 the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The
106 Virginia Secretary of Natural Resources and the North Carolina Secretary of the Department of
107 Environment and Natural Resources or their designees shall each serve as the liaison between their
108 respective state agencies and the Commission.

109 § 62.1-69.40. Funding.

110 A. The Commission shall annually adopt a budget, which shall include the Commission's estimated
111 expenses. Funding for the Commission shall be shared and apportioned between the Commonwealth of
112 Virginia and the State of North Carolina. The appropriation of public funds to the Commission shall be
113 provided through each state's regular process for appropriating public funds. The Virginia planning
114 district commissions within the Basin shall bear a proportion of Virginia's share of the expenses, which
115 may be in the form of in-kind contributions.

116 B. The Commission shall designate a fiscal agent.

117 C. The accounts and records of the Commission showing the receipt and disbursement of funds from
118 whatever source derived shall be in such form as the Virginia Auditor of Public Accounts and the North
119 Carolina State Auditor prescribe, provided that such accounts shall correspond as nearly as possible to
120 the accounts and records for such matters maintained by similar enterprises. The accounts and records
121 of the Commission shall be subject to an annual audit by the Virginia Auditor of Public Accounts and

the North Carolina State Auditor or their legal representatives, and the costs of such audit services shall be borne by the Commission. The results of the audits shall be delivered to the appropriate legislative oversight committees in each state.

§ 62.1-69.41. Compensation and expenses of Commission members.

A. Legislative members of the Virginia delegation to the Commission shall receive such compensation as provided in § 30-19.12, and shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825. However, all such expenses shall be paid from existing appropriations and funds provided to the Commission.

B. The North Carolina members of the Commission shall receive per diem, subsistence, and travel expenses as follows:

1. Ex officio legislative members who are members of the General Assembly at the rate established in North Carolina G.S. 138-6;

2. Commission members who are officials or employees of the State or of local government agencies at the rate established in North Carolina G.S. 138-6; and

3. All other members at the rate established in North Carolina G.S. 138-5.

§ 62.1-69.42. Annual report required.

The Commission shall submit an annual report, including any recommendations, to the Governor and General Assembly of Virginia and the Governor and General Assembly of North Carolina.

§ 62.1-69.43. Virginia Roanoke River Basin Advisory Committee established; membership; terms of office.

A. The Virginia Roanoke River Basin Advisory Committee is hereby established as an advisory committee to the Virginia delegation to the Roanoke River Basin Bi-State Commission, to assist the delegation in fulfilling the duties and carrying out the objectives of the Commission, pursuant to § 62.1-69.35. The advisory committee shall be composed of eighteen members, and shall include the six state legislators who are members of the Virginia delegation to the Roanoke River Basin Bi-State Commission; eleven members selected by the six state legislators who are members of the Virginia delegation from among recommendations submitted to them by the planning district commissions within the Basin as follows: two members each from among recommendations by the Central Virginia Planning District Commission, the West Piedmont Planning District Commission, the Southside Planning District Commission, the Piedmont Planning District Commission, and the Roanoke Valley Alleghany Planning District Commission, and one member from among recommendations by the New River Valley Planning District Commission; and the Virginia member of the U.S. House of Representatives, whose district includes the largest portion of the Basin, or his designee, if he elects to serve on the advisory committee. Each planning district commission shall recommend a group of candidates who represent the diversity of interests in the jurisdictions comprising the respective planning district commissions. Planning district commissions authorized to recommend two members to the advisory committee shall recommend no more than one person who at the time of the recommendation (i) is serving as an elected member or is an employee of a local governing body, or (ii) is serving as a member of the board of directors or is an employee of the planning district commission. All persons recommended by the planning district commissions to serve as members of the advisory committee shall reside within the Basin's watershed, and shall demonstrate interest, experience, or expertise in water-related Basin issues. In addition, persons representing the interests of the State of North Carolina who may be appointed to the advisory committee shall serve as non-voting ex officio members.

B. State and federal legislative members appointed to the advisory committee shall serve terms coincident with their terms of office. Members recommended by planning district commissions to serve on the advisory committee and ex officio members representing the State of North Carolina shall serve a term of two years. Initially, planning district commissions authorized to recommend two members to the advisory committee shall recommend one member for a term of two years and one member for a term of one year. However, the member recommended to serve on the advisory committee by the New River Valley Planning District Commission shall serve a term of one year. Thereafter, the term of office of members recommended by planning district commissions shall be for two years. Members recommended by planning district commissions shall be eligible for reappointment, if such members shall have attended at least one-half of all meetings of the Commission during their current term of service. However, no member recommended by a planning district commission shall serve more than three consecutive two-year terms. Appointments to fill vacancies shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointment.

2. That the provisions of this act pertaining to the State of North Carolina, including its participation in, funding for, and responsibilities to the Roanoke River Bi-State Commission, shall become effective upon the date of enactment of a comparable act establishing the Roanoke River Basin Bi-State Commission by the General Assembly of North Carolina.

3. That, notwithstanding any inaction by the General Assembly of North Carolina, the Virginia

183 Roanoke River Basin Advisory Committee shall organize and commence its work.

184 4. That, upon the decision of the General Assembly of North Carolina not to enact or repeals
185 comparable legislation establishing the Roanoke River Bi-State Commission, the Virginia Roanoke
186 River Basin Advisory Committee shall assume the powers and duties of the Roanoke River Basin
187 Bi-State Commission, in accordance with § 62.1-69.36.