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HOUSE BILL NO. 1150

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 62.1-203 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2350; a section numbered 10.1-1186.1:1; and in Title 62.1 a chapter numbered 23.01, consisting of sections numbered 62.1-241.01 through 62.1-241.11, relating to the Chesapeake Bay Clean-up Authority and the Chesapeake Bay Clean-up Fund.

Patrons—Lingamfelter, Albo, Athey, Cosgrove, Frederick, Gilbert, Hugo, Jones, S.C., Landes, Morgan, O'Bannon, Peace, Rust and Suit

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-203 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 22 of Title 2.2 an article numbered 10, consisting of sections numbered 2.2-2336 through 2.2-2350; a section numbered 10.1-1186.1:1; and in Title 62.1 a chapter numbered 23.01, consisting of sections numbered 62.1-241.01 through 62.1-241.11, as follows:

Article 10.

Virginia Chesapeake Bay Clean-up Authority.

§ 2.2-2336. Authority created.

The Virginia Chesapeake Bay Clean-up Authority is created, with the duties and powers set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public and essential governmental functions, and the exercise by the Authority of the duties and powers conferred by this article shall be deemed and held to be the performance of an essential governmental function of the Commonwealth. The exercise of the powers granted by this article and its public purpose shall be in all respects for the benefit of the inhabitants of the Commonwealth.

§ 2.2-2337. Board of directors; members and officers; executive director.

A. The Authority shall be governed by a board of directors consisting of 15 members as follows: the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources; the Chairman of the House Committee on Appropriations; the Chairman of the Senate Committee on Finance; four nonlegislative members to be appointed by the Speaker of the House of Delegates; two nonlegislative members to be appointed by the Senate Committee on Rules; and six nonlegislative members to be appointed by the Governor. Of the nonlegislative members appointed by the Governor, (i) one shall have extensive experience in business finance, (ii) one shall have extensive experience in civil engineering, (iii) one shall have extensive experience in marine science, (iv) one shall have extensive experience in soil agronomy, (v) one shall have extensive experience in agribusiness, and (vi) one shall have extensive experience in livestock nutrition.

B. Legislative members shall serve terms coincident with their terms of office. With the exception of initial staggered terms, the nonlegislative members shall serve terms of four years. Any appointment to fill a vacancy on the Board shall be made for the unexpired term of the member whose death, resignation, or removal created the vacancy. Nonlegislative members may be reappointed at the end of their four-year term.

C. The Chairman of the House Committee on Appropriations and the Chairman of the Senate Committee on Finance shall be co-chairmen of the Board. Meetings of the Board shall be held at the call of either of the co-chairmen or of any seven members. Eight members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

D. The members of the Board shall be entitled to reimbursement for their reasonable travel, meal, and lodging expenses incurred in attending the meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority upon vouchers signed by one of the co-chairmen of the Board or by such other person designated by the Board for this purpose.

E. The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board. The Executive Director and employees of the Authority

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58 shall be compensated in the manner provided by the Board and shall not be subject to the provisions of  
59 the Virginia Personnel Act (§ 2.2-2900 et seq.).

60 § 2.2-2338. Duties of the Authority.

61 In addition to other duties prescribed by law, the Authority shall:

62 1. Develop, through the Department of Environmental Quality (the Department) as provided by  
63 § 10.1-1186.1:1, the Chesapeake Bay Clean-up Strategic Plan (the Plan);

64 2. Oversee the execution of the Plan by the Department, including the approval of any major  
65 alterations or modifications;

66 3. Approve all major expenditures related to the execution of the plan; and

67 4. Provide to the Governor and General Assembly an annual report on the progress of Chesapeake  
68 Bay clean-up detailing (i) the status of clean-up actions consistent with the Plan, (ii) funds spent to  
69 support the Plan, (iii) future financial requirements, (iv) recommended legislative action, and (v) future  
70 operations under the Plan.

71 § 2.2-2339. Powers of Authority.

72 The Authority shall be granted all powers necessary or appropriate to carry out and to effectuate its  
73 purposes, including the power to:

74 1. Have perpetual succession as a public body corporate and as a political subdivision of the  
75 Commonwealth;

76 2. Adopt, amend, and repeal bylaws, rules, and regulations consistent with this article for the  
77 administration and regulation of its affairs, to carry into effect the powers and purposes of the Authority  
78 and the conduct of its business;

79 3. Sue and be sued in its own name;

80 4. Have an official seal and alter it at will, although the failure to affix this seal shall not affect the  
81 validity of any instrument executed on behalf of the Authority;

82 5. Maintain an office at any place that it designates;

83 6. Make and execute contracts and all other instruments and agreements necessary or convenient for  
84 the performance of its duties and the exercise of its powers and functions under this article;

85 7. Borrow money, make and issue bonds, including bonds as the Authority may determine to issue  
86 for accomplishing the purposes set forth in § 2.2-2328 or for refunding bonds previously issued by the  
87 Authority, whether such outstanding bonds have matured or are subject to redemption, or any  
88 combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge,  
89 assignment, or deed of trust of all or any of its revenues, rentals, and receipts or of any project or  
90 property, real, personal, or mixed, tangible or intangible, or any rights and interest therein; make such  
91 agreements with the purchasers or holders of such bonds or with others in connection with any such  
92 bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide  
93 for the security for said bonds and the rights of holders thereof;

94 8. Make and enter into all contracts and agreements necessary or incidental to the performance of  
95 its duties, the furtherance of its purposes, and the execution of its powers under this article, including  
96 interstate compacts and agreements with any person or federal agency;

97 9. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial  
98 experts, investment bankers, superintendents, managers, marine scientists, agronomists, hydrologists, and  
99 such other employees and agents as may be necessary, and to fix their compensation to be payable from  
100 funds made available to the Authority;

101 10. Receive and accept from any federal or private agency, foundation, corporation, association, or  
102 person grants, donations of money, real property, or personal property for the benefit of the Authority,  
103 and to receive and accept from the Commonwealth or any state, any municipality, county or other  
104 political subdivision thereof, and from any other source, aid, or contributions of either money, property,  
105 or other things of value, to be held, used, and applied for the purposes for which such grants and  
106 contributions may be made;

107 11. Receive and accept from any source aid, grants, and contributions of money, property, labor, or  
108 other things of value to be held, used, and applied to carry out the purposes of this article subject to  
109 the conditions upon which the aid, grants, or contributions are made;

110 12. Enter into agreements with any department, agency or instrumentality of the United States, the  
111 Commonwealth, the District of Columbia, or any state for purposes consistent with its mission;

112 13. Make grants to local governments with any funds of the Authority available for this purpose;

113 14. Raise money in the corporate, nonprofit, and nonstate communities to finance the Authority's  
114 activities; and

115 15. Do any act necessary or convenient to the exercise of the powers granted or reasonably implied  
116 by this article and not otherwise inconsistent with the law of the Commonwealth.

117 § 2.2-2340. Grants or loans of public or private funds.

118 A. The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and  
119 other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish,

120 in whole or in part, any of the purposes of this article. All federal moneys accepted under this section  
121 shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by  
122 the United States and as are consistent with state law; and all state moneys accepted under this section  
123 shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by  
124 the Commonwealth.

125 B. The Commonwealth may make grants of money or real or personal property to the Authority for  
126 the purpose of enabling it to carry out its corporate purposes and for the exercise of its powers. This  
127 section shall not be construed to limit any other power the Commonwealth may have to make grants to  
128 the Authority.

129 § 2.2-2341. Bonds of Authority; terms and conditions.

130 The bonds of each issue shall be dated, shall bear interest at such rates as shall be fixed by the  
131 Authority, shall mature at such time not exceeding 40 years from their date as may be determined by  
132 the Authority, and may be made redeemable before maturity, at the option of the Authority, at such  
133 price or prices and under such terms and conditions as may be fixed by the Authority prior to the  
134 issuance of the bonds. The Authority shall determine the form of bonds and their manner of execution,  
135 and shall fix the denomination of the bonds and the place of payment of principal and interest, which  
136 may be at any bank or trust company within or without the Commonwealth. The bonds shall be (i)  
137 signed by both co-chairmen of the Authority, or if so authorized by the Authority, shall bear their  
138 facsimile signatures, (ii) and be impressed or imprinted with the official seal of the Authority, or, if so  
139 authorized by the Authority, a facsimile signature thereof shall be impressed or imprinted thereon and  
140 attested by the secretary or any assistant secretary of the Authority, or, if so authorized by the  
141 Authority, with the facsimile signature of such secretary or assistant secretary. Any coupons attached to  
142 bonds issued by the Authority shall bear the signatures of the co-chairmen of the Authority or a  
143 facsimile thereof. In case any officer whose signature or a facsimile of signature shall appear on any  
144 bonds or coupons shall cease to be an officer before the delivery of such bonds, his signature or such  
145 facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in  
146 office until such delivery, and any bonds may bear the facsimile signature of, or may be signed by, such  
147 persons as at the actual time of the execution of such bonds shall be the proper officers to sign the  
148 bonds although at the date of such bonds such persons may not have been such officers. The bonds may  
149 be issued in coupon or in registered form, or both, as the Authority may determine, and provision may  
150 be made for the registration of any coupon bonds as to principal alone and also as to both principal  
151 and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and  
152 interest, and for the interchange of registered and coupon bonds. The Authority may sell bonds in a  
153 manner, either at public or private sale, and for a price or prices as it may determine will best effect  
154 the purposes of this article.

155 The proceeds of the bonds of each issue shall be used solely for the purposes, and in furtherance of  
156 the powers, of the Authority as may be provided in the resolution authorizing the issuance of such bonds  
157 or in the trust agreement authorized by § 2.2-2342 securing the bonds.

158 In addition to the above powers, the Authority may issue interim receipts or temporary bonds as  
159 provided in § 15.2-2616 and execute and deliver new bonds in place of bonds mutilated, lost or  
160 destroyed, as provided in § 15.2-2621.

161 No obligation of the Authority shall be deemed to constitute a debt, or pledge of the faith and credit,  
162 of the Commonwealth or of any political subdivision thereof, but shall be payable solely from the  
163 revenue and other funds of the Authority pledged thereto. All such obligations shall contain on the face  
164 thereof a statement to the effect that the Commonwealth, any political subdivisions thereof and the  
165 Authority shall not be obligated to pay the same or the interest thereon except from revenues and other  
166 funds of the Authority pledged thereto, and that neither the faith and credit nor the taxing power of the  
167 Commonwealth or of any political subdivision thereof is pledged to the payment of the principal of or  
168 the interest on such obligations.

169 All expenses incurred in carrying out the provisions of this article shall be payable solely from funds  
170 provided under the provisions of this article and no liability shall be incurred by the Authority beyond  
171 the extent to which moneys have been provided under the provisions of this article.

172 § 2.2-2342. Trust agreement securing bonds.

173 In the discretion of the Authority, any bonds issued under the provisions of this article may be  
174 secured by a trust agreement by and between the Authority and a corporate trustee, which may be any  
175 trust company or bank having the powers of a trust company within or without the Commonwealth. The  
176 trust agreement or the resolution providing for the issuance of the bonds may (i) pledge or assign the  
177 revenues to be received and provide for the mortgage of any project or property or any part thereof;  
178 (ii) contain provisions for protecting and enforcing the rights and remedies of the bondholders as may  
179 be reasonable and proper and not in violation of law, including covenants setting forth the duties of the  
180 Authority in relation to the acquisition of property and the planning, development, acquisition,

181 construction, rehabilitation, establishment, improvement, extension, enlargement, maintenance, repair,  
182 operation and insurance of the project in connection with which the bonds have been authorized; (iii)  
183 establish the rates and fees to be charged; (iv) contain provisions as to the custody, safeguarding and  
184 application of all moneys; and (v) contain conditions or limitations with respect to the issuance of  
185 additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of the  
186 Commonwealth that may act as depository of the proceeds of bonds or of revenue to furnish the  
187 indemnifying bonds or to pledge the securities required by the Authority. Any trust agreement may set  
188 forth the rights of action by bondholders. In addition to the foregoing, any trust agreement or resolution  
189 may contain other provisions as the Authority may deem reasonable and proper for the security of the  
190 bondholders. All expenses incurred in carrying out the provisions of the trust agreement or resolution  
191 may be treated as a part of the cost of the operation of the project or projects.

192 § 2.2-2343. Moneys received deemed trust funds.

193 All moneys received pursuant to the authority of this article, whether as proceeds from the sale of  
194 bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in  
195 this article. The resolution authorizing the bonds of any issue or the trust agreement securing such  
196 bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys  
197 shall be deposited shall act as a trustee of such moneys and shall hold and apply the same for the  
198 purposes of this article hereof, subject to the regulations as this article and the resolution or trust  
199 agreement may provide.

200 § 2.2-2344. Proceedings by bondholder or trustee to enforce rights.

201 Any holder of bonds issued under the provisions of this article or any of the coupons appertaining  
202 thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be  
203 restricted by the trust agreement or the resolution authorizing the issuance of such bonds, may either at  
204 law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights  
205 under the laws of the Commonwealth or granted hereunder or under the trust agreement or resolution,  
206 and may enforce and compel the performance of all duties required by this article or by the trust  
207 agreement or resolution to be performed by the Authority or by any officer thereof, including the fixing,  
208 charging, and collecting of rates, rentals, and other charges.

209 § 2.2-2345. Bonds made securities for investment and deposit.

210 Bonds issued by the Authority under the provisions of this article shall be securities in which all  
211 public officers and public bodies of the Commonwealth and its political subdivisions, all insurance  
212 companies, trust companies, banking associations, investment companies, executors, administrators,  
213 trustees, and other fiduciaries may properly and legally invest funds, including capital in their control  
214 or belonging to them. Such bonds shall be securities that may properly and legally be deposited with  
215 and received by any state or municipal officer or any agency or political subdivision of the  
216 Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is  
217 now or may be authorized by law.

218 § 2.2-2346. Revenue refunding bonds; bonds for refunding and for cost of additional projects.

219 The Authority may provide for the issuance of revenue refunding bonds for the purpose of refunding  
220 any bonds of the Authority then outstanding that have been issued under the provisions of this article,  
221 including the payment of any redemption premium thereon and any interest accrued or to accrue to the  
222 date of redemption of the bonds, and, if deemed advisable by the Authority, for the additional purpose  
223 of constructing improvements, extensions, or enlargements of the project or projects in connection with  
224 which the bonds to be refunded shall have been issued. The Authority may provide by resolution for the  
225 issuance of its revenue bonds for the combined purpose of (i) refunding any bonds then outstanding that  
226 shall have been issued under the provisions of this article, including the payment of any redemption  
227 premium thereon and any interest accrued or to accrue to the date of redemption of the bonds, and (ii)  
228 paying all or any part of the cost of any additional project or any portion thereof. The issuance of the  
229 bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties  
230 and obligations of the Authority in respect of the same shall be governed by the provisions of this  
231 article insofar as they may be applicable.

232 § 2.2-2347. Grants or loans of public or private funds.

233 The Authority may accept, receive, receipt for, disburse, and expend federal and state moneys and  
234 other moneys, public or private, made available by grant or loan or both or otherwise, to accomplish,  
235 in whole or in part, any of the purposes of this article. All federal moneys accepted under this section  
236 shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by  
237 the United States and as are consistent with; and all state moneys accepted under this section shall be  
238 accepted and expended by the Authority upon such terms and conditions as are prescribed by the  
239 Commonwealth.

240 § 2.2-2348. Moneys of Authority; examination of books by the Auditor of Public Accounts.

241 All moneys of the Authority, from whatever source derived, shall be paid to the treasurer of the  
242 Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or

243 trust companies, in one or more special accounts. All banks and trust companies are authorized to give  
244 such security for such deposits, if required by the Authority. The moneys in such accounts shall be paid  
245 out on the warrant or other order of the treasurer of the Authority or of other persons as the Authority  
246 may authorize to execute such warrants or orders. The Auditor of Public Accounts or his legally  
247 authorized representatives shall examine the accounts and books of the Authority.

248 § 2.2-2349. Exemption from taxes or assessments.

249 The exercise of the powers granted by this article shall be in all respects for the benefit of the  
250 people of the Commonwealth, for the increase of their commerce and prosperity, and for the  
251 improvement of their health and living conditions, and as the operation and maintenance of projects by  
252 the Authority and the undertaking of activities in furtherance of the purpose of the Authority constitute  
253 the performance of essential governmental functions, the Authority shall not be required to pay any  
254 taxes or assessments upon any project or any property acquired or used by the Authority under the  
255 provisions of this article or upon the income therefrom, including sales and use taxes on tangible  
256 personal property used in the operations of the Authority, and any bonds issued under the provisions of  
257 this article, their transfer and the income therefrom (including any profit made on the sale thereof) shall  
258 at all times be free from state and local taxation. The exemption granted in this section shall not be  
259 construed to extend to persons conducting on the premises of a facility businesses for which local or  
260 state taxes would otherwise be required.

261 § 2.2-2350. Cooperation and assistance.

262 All agencies, authorities, and institutions of the Commonwealth shall cooperate and provide such  
263 assistance to the Authority as the Authority may request.

264 § 10.1-1186.1:1. Department to develop Chesapeake Bay Clean-up Strategic Plan; Virginia  
265 Chesapeake Bay Clean-up Authority.

266 The Department of Environmental Quality shall develop a comprehensive Chesapeake Bay Clean-up  
267 Strategic Plan (the Plan). Upon approval of the Plan by the Virginia Chesapeake Bay Clean-up  
268 Authority (the Authority) created pursuant to § 2.2-2336, the Department shall execute the plan. The  
269 Authority shall provide oversight of the plan and approve all modifications suggested from time to time  
270 by the Department.

271 § 62.1-203. Powers of Authority.

272 The Authority is granted all powers necessary or appropriate to carry out and to effectuate its  
273 purposes, including the following:

- 274 1. To have perpetual succession as a public body corporate and as a political subdivision of the  
275 Commonwealth;
- 276 2. To adopt, amend and repeal bylaws, and rules and regulations, not inconsistent with this chapter  
277 for the administration and regulation of its affairs and to carry into effect the powers and purposes of  
278 the Authority and the conduct of its business;
- 279 3. To sue and be sued in its own name;
- 280 4. To have an official seal and alter it at will although the failure to affix this seal shall not affect  
281 the validity of any instrument executed on behalf of the Authority;
- 282 5. To maintain an office at any place within the Commonwealth which it designates;
- 283 6. To make and execute contracts and all other instruments and agreements necessary or convenient  
284 for the performance of its duties and the exercise of its powers and functions under this chapter;
- 285 7. To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any  
286 part of its properties and assets;
- 287 8. To employ officers, employees, agents, advisers and consultants, including without limitations,  
288 attorneys, financial advisers, engineers and other technical advisers and public accountants and, the  
289 provisions of any other law to the contrary notwithstanding, to determine their duties and compensation  
290 without the approval of any other agency or instrumentality;
- 291 9. To procure insurance, in amounts and from insurers of its choice, or provide self-insurance,  
292 against any loss, cost, or expense in connection with its property, assets or activities, including insurance  
293 or self-insurance against liability for its acts or the acts of its directors, employees or agents and for the  
294 indemnification of the members of its Board of Directors and its employees and agents;
- 295 10. To procure credit enhancements from any public or private entities, including any department,  
296 agency or instrumentality of the United States of America or the Commonwealth, for the payment of  
297 any bonds issued by the Authority, including the power to pay premiums or fees on any such credit  
298 enhancements;
- 299 11. To receive and accept from any source aid, grants and contributions of money, property, labor or  
300 other things of value to be held, used and applied to carry out the purposes of this chapter subject to the  
301 conditions upon which the aid, grants or contributions are made;
- 302 12. To enter into agreements with any department, agency or instrumentality of the United States of  
303 America or, the Commonwealth, the District of Columbia or any adjoining state for the purpose of

304 planning, regulating and providing for the financing of any projects;  
 305 13. To collect, or to authorize the trustee under any trust indenture securing any bonds or any other  
 306 fiduciary to collect, amounts due under any local obligations owned or credit enhanced by the Authority,  
 307 including taking the action required by § 15.2-2659 or § 62.1-216.1 to obtain payment of any sums in  
 308 default;

309 14. To enter into contracts or agreements for the servicing and processing of local obligations owned  
 310 by the Authority;

311 15. To invest or reinvest its funds as provided in this chapter or permitted by applicable law;

312 16. Unless restricted under any agreement with holders of bonds, to consent to any modification with  
 313 respect to the rate of interest, time and payment of any installment of principal or interest, or any other  
 314 term of any local obligations owned by the Authority;

315 17. To establish and revise, amend and repeal, and to charge and collect, fees and charges in  
 316 connection with any activities or services of the Authority;

317 18. To do any act necessary or convenient to the exercise of the powers granted or reasonably  
 318 implied by this chapter; and

319 19. To pledge as security for the payment of any or all bonds of the Authority, all or any part of the  
 320 Capital Reserve Fund or other reserve fund or account transferred to a trustee for such purpose from the  
 321 Water Facilities Revolving Fund pursuant to § 62.1-231, or from the Water Supply Revolving Fund  
 322 pursuant to § 62.1-240, or from the Virginia Solid Waste or Recycling Revolving Fund pursuant to  
 323 § 62.1-241.9, or from the Virginia Airports Revolving Fund pursuant to § 5.1-30.6, or from the  
 324 Chesapeake Bay Clean-up Revolving Fund pursuant to 62.1-241.07.

325 CHAPTER 23.01.

326 CHESAPEAKE BAY CLEAN-UP REVOLVING FUND.

327 § 62.1-241.01. Definitions.

328 "Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of  
 329 Title 62.1.

330 "Board" means the Board of Directors of the Virginia Resources Authority.

331 "Cost" as applied to any project financed under the provisions of this chapter, means the reasonable  
 332 and necessary costs incurred for carrying out all works and undertakings necessary or incident to the  
 333 accomplishment of any project. It includes, without limitation, all necessary developmental, planning and  
 334 feasibility studies, surveys, plans, and specifications; architectural, engineering, financial, legal, or other  
 335 special services; site preparation and development, including the demolition or removal of existing  
 336 structures; the costs of acquisition of land and any buildings and improvements thereon, including the  
 337 discharge of any obligation of the seller of such land, buildings, or improvements; labor; materials,  
 338 machinery and equipment; the funding of accounts and reserves that the Authority may require; the  
 339 reasonable costs of financing incurred by the local government in the course of the development of the  
 340 project; carrying charges incurred prior to completion of the project; interest on local obligations  
 341 issued to finance the project to a date subsequent to the estimated date the project is to be placed in  
 342 service; necessary expenses incurred in connection with placing the project in service; and the cost of  
 343 other items that the Authority determines to be reasonable and necessary. It also includes the amount of  
 344 any contribution, grant, or aid that a local government may make or give to any adjoining state, the  
 345 District of Columbia, or any department, agency or instrumentality thereof to pay the costs incident and  
 346 necessary to the accomplishment of any project, including, without limitation, the items set forth above.

347 "Fund" means the Chesapeake Bay Clean-up Revolving Fund created by this chapter.

348 "Local Government" means any county, city, town, municipal corporation, authority, district,  
 349 commission, or political subdivision of the Commonwealth created by the General Assembly or  
 350 otherwise created pursuant to the laws of the Commonwealth or any combination of the foregoing.

351 "Project" means all or any part of a facility related to, in support of, used, determined, or to be used  
 352 or determined to be for, or for the benefit of, watershed protection or improvement; wastewater  
 353 (including surface or groundwater) or sewage collection, treatment, disposal; drainage or stormwater  
 354 management; pollution prevention and may consist of or include any or all facilities related to the needs  
 355 or convenience of such interests, together with any or all buildings or other structures, improvements,  
 356 additions, extensions, replacements, machinery or equipment, rolling stock, and any or all  
 357 appurtenances, lands, rights in land, rights-of-way, or other facilities necessary or desirable in  
 358 connection therewith or incidental thereto.

359 § 62.1-241.02. Creation and management of the Chesapeake Bay Clean-up Revolving Fund.

360 A. There is hereby created and set apart a special, permanent, perpetual, and nonreverting fund to  
 361 be known as the Chesapeake Bay Clean-up Revolving Fund for the purposes of protecting, supporting,  
 362 enhancing, furthering, and improving the waterways and watersheds and related interests of the  
 363 Commonwealth. The Fund shall consist of sums appropriated to the Fund by the General Assembly; all  
 364 receipts by the Fund, including, but not limited to, from loans made by it; all income from the  
 365 investment of moneys held in the Fund; and any other sums designated for deposit to the Fund from any

366 source, public or private, including, but not limited to, any federal grants, awards, or other forms of  
367 financial assistance received by the Commonwealth.

368 B. The Authority shall administer and manage the Fund, and establish the interest rates and  
369 repayment terms of loans as provided in this chapter. Consistent with this chapter, the Chesapeake Bay  
370 Clean-up Authority, shall, after consultation with all interested parties, develop a guidance document  
371 governing project eligibility and project priority criteria, and the Chesapeake Bay Clean-up Authority  
372 shall direct the distribution of loans and grants from the Fund to particular local governments. In order  
373 to carry out the administration and management of the Fund, the Authority is granted the power to  
374 employ officers, employees, agents, advisers and consultants, including, without limitation, attorneys,  
375 financial advisers, engineers and other technical advisers and public accountants and, the provisions of  
376 any other law to the contrary notwithstanding, to determine their duties and compensation without the  
377 approval of any other agency or instrumentality. The Authority may disburse from the Fund its  
378 reasonable costs and expenses incurred in the administration and management of the Fund and may  
379 establish and collect a reasonable fee for its management services. Notwithstanding this, any such fee or  
380 fees shall not exceed one-eighth of one percent (0.125%) of any bond par, loan, or grant amount as  
381 calculated thereon.

382 § 62.1-241.03. Deposit of money; expenditures; investments.

383 All money belonging to the Fund shall be deposited in an account or accounts in banks or trust  
384 companies organized under the laws of the Commonwealth or in national banking associations located  
385 in Virginia or in savings institutions located in Virginia organized under the laws of the Commonwealth  
386 or the United States. The money in these accounts shall be paid by check and signed by the Executive  
387 Director of the Authority or other officers or employees designated by the Board of Directors of the  
388 Authority. All deposits of money shall, if required by the Authority, be secured in a manner determined  
389 by the Authority to be prudent, and all banks, trust companies and savings institutions are authorized to  
390 give security for the deposits. Money in the Fund shall not be commingled with other money of the  
391 Authority. Money in the Fund not needed for immediate use or disbursement may be invested or  
392 reinvested by the Authority in obligations or securities that are considered lawful investments for public  
393 funds under the laws of the Commonwealth.

394 § 62.1-241.04. Collection of money due Fund.

395 The Authority is empowered to collect, or to authorize others to collect on its behalf, amounts due to  
396 the Fund under any loan including, if appropriate, taking the action required by § 15.2-2659 or  
397 § 62.1-216.1 to obtain payment of any amounts in default or unpaid. Proceedings to recover amounts  
398 due to the Fund may be instituted by the Authority in the name of the Fund in the appropriate circuit  
399 court.

400 § 62.1-241.05. Grants to local governments.

401 Subject to any restrictions that may apply to the use of money in the Fund, the Chesapeake Bay  
402 Clean-up Authority in its discretion may approve the use of money in the Fund to make and disburse  
403 grants or appropriations to local governments to pay the cost of any project. The Chesapeake Bay  
404 Clean-up Authority may establish such terms and conditions on any grant as it deems appropriate and  
405 shall evaluate each grant request in accordance with the guidelines developed for this purpose.

406 § 62.1-241.06. Loans to local governments.

407 Subject to the Chesapeake Bay Clean-up Authority's direction after consultation with the Board, the  
408 Authority may make loans from the Fund to local governments to finance or refinance the cost of any  
409 project. The local governments to which loans are to be made, the purposes of each such loan, and the  
410 amount of each such loan, shall be designated in writing to the Authority by the Chesapeake Bay  
411 Clean-up Authority. No loan from the Fund shall exceed the total cost of the project to be financed or  
412 the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing  
413 expenses.

414 Except as otherwise provided in this chapter, the Authority shall determine the interest rate and  
415 terms and conditions of any loan from the Fund, which may vary between local governments. Each loan  
416 shall be evidenced by appropriate bonds or notes of the local government payable to the Fund. The  
417 bonds or notes shall have been duly authorized by the local government and executed by its authorized  
418 legal representatives. The Authority is authorized to require in connection with any loan from the Fund  
419 such documents, instruments, certificates, legal opinions, and other information as it may deem  
420 necessary or convenient. In addition to any other terms or conditions that the Authority may establish,  
421 the Authority may require, as a condition to making any loan from the Fund, that the local government  
422 receiving the loan covenant perform any of the following:

423 1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a  
424 specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the  
425 project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the  
426 principal of, premium, if any, and interest on the loan from the Fund to the local government; and (iii)

427 any amounts necessary to create and maintain any required reserve.

428 2. Levy and collect ad valorem taxes on all property within the jurisdiction of the local government  
429 subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan  
430 from the Fund to the local government.

431 3. Create and maintain a special fund or funds for the payment of the principal of, premium, if any,  
432 and interest on the loan from the Fund to the local government and any other amounts becoming due  
433 under any agreement entered into in connection with the loan, or for the operation, maintenance, repair,  
434 or replacement of the project or any portions thereof or other property of the local government, and  
435 deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due  
436 and payable.

437 4. Create and maintain other special funds as required by the Authority.

438 5. Perform other acts otherwise permitted by applicable law to secure payment of the principal of,  
439 premium, if any, and interest on the loan from the Fund to the local government and to provide for the  
440 remedies of the Fund in the event of any default by the local government in the payment of the loan,  
441 including, without limitation, any of the following:

442 a. The conveyance of, or the granting of liens on or security interests in, real and personal property,  
443 together with all rights, title and interest therein;

444 b. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security,  
445 liquidity arrangements or credit supports for the loan from any source, public or private, and the  
446 payment therefor of premiums, fees, or other charges;

447 c. The combination of one or more projects, or the combination of one or more projects with one or  
448 more other undertakings or facilities for the purpose of operations and financing, and the pledging of  
449 the revenues from such combined projects, undertakings or facilities to secure the loan from the Fund to  
450 the local government made in connection with such combination or any part or parts thereof;

451 d. The maintenance, replacement, renewal, and repair of the project; and

452 e. The procurement of casualty and liability insurance.

453 6. Obtain a review of the accounting and the internal controls from the Auditor of Public Accounts  
454 or his legally authorized representatives. The Authority may request additional reviews at any time  
455 during the term of the loan. In addition, anyone receiving a report in accordance with § 62.1-241.10  
456 may request an additional review as set forth in this section.

457 7. Directly offer, pledge, and consent to the Authority to take action pursuant to § 62.1-216.1 to  
458 obtain payment of any amounts in default.

459 All local governments borrowing money from the Fund are authorized to perform any acts, take any  
460 action, adopt any proceedings and make and carry out any contracts that are contemplated by this  
461 chapter. Such contracts need not be identical among all local governments, but may be structured as  
462 determined by the Authority according to the needs of the contracting local governments and the Fund.

463 Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the  
464 Authority may consent to and approve any modification in the terms of any loan to any local  
465 government.

466 § 62.1-241.07. Pledge of loans to secure bonds of Authority.

467 The Authority is empowered at any time and from time to time to pledge, assign or transfer from the  
468 Fund to banks or trust companies designated by the Authority any or all of the assets of the Fund to be  
469 held in trust as security for the payment of the principal of, premium, if any, and interest on any or all  
470 of the bonds, as defined in § 62.1-199, issued to finance any project. The interests of the Fund in any  
471 assets so transferred shall be subordinate to the rights of the trustee under the pledge, assignment or  
472 transfer. To the extent funds are not available from other sources pledged for such purpose, any of the  
473 assets or payments of principal and interest received on the assets pledged, assigned or transferred or  
474 held in trust may be applied by the trustee thereof to the payment of the principal of, premium, if any,  
475 and interest on such bonds of the Authority secured thereby, and, if such payments are insufficient for  
476 such purpose, the trustee is empowered to sell any or all of such assets and apply the net proceeds from  
477 the sale to the payment of the principal of, premium, if any, and interest on such bonds of the Authority.  
478 Any assets of the Fund pledged, assigned, or transferred in trust as set forth above and any payments of  
479 principal, interest, or earnings received thereon shall remain part of the Fund but shall be subject to  
480 the pledge, assignment, or transfer to secure the bonds of the Authority and shall be held by the trustee  
481 to which they are pledged, assigned, or transferred until no longer required for such purpose by the  
482 terms of the pledge, assignment, or transfer.

483 § 62.1-241.08. Sale of loans.

484 The Authority is empowered at any time and from time to time to sell, upon such terms and  
485 conditions as the Authority shall deem appropriate, any loan, or interest therein, made pursuant to this  
486 chapter. The net proceeds of sale remaining after the payment of the costs and expenses of the sale  
487 shall be designated for deposit to, and become part of, the Fund.

488 § 62.1-241.09. Powers of the Authority.

489 *The Authority is authorized to do any act necessary or convenient to the exercise of the powers*  
490 *granted in this chapter or reasonably implied thereby.*

491 *§ 62.1-241.10. Report to the General Assembly and Governor.*

492 *The Authority shall report annually to the General Assembly and the Governor on all grants and*  
493 *loans made from the Fund.*

494 *§ 62.1-241.11. Liberal construction of chapter.*

495 *The provisions of this chapter shall be liberally construed to the end that its beneficial purposes may*  
496 *be effectuated. Insofar as the provisions of this chapter are inconsistent with the provisions of any other*  
497 *law, general, special or local, the provisions of this chapter shall be controlling.*

498 **2. That the provisions of this act shall expire on July 1, 2017.**

499 **3. That the initial terms of the members of the board of directors of the Virginia Chesapeake Bay**  
500 **Clean-up Authority appointed pursuant to this act shall be staggered as follows: (i) two members**  
501 **appointed by the Governor, one member appointed by the Speaker of the House of Delegates and**  
502 **one member appointed by the Senate Committee on Rules to a term of three years; (ii) two**  
503 **members appointed by the Governor, two members appointed by the Speaker of the House of**  
504 **Delegates and one member appointed by the Senate Committee on Rules to a term of five years,**  
505 **and (iii) two members appointed by the Governor and one member appointed by the Speaker of**  
506 **the House of Delegates for a term of six years. Thereafter the terms of members shall be four**  
507 **years.**

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