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HOUSE BILL NO. 448**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on January 18, 2006)

(Patron Prior to Substitute—Delegate Ware, R. L.)

A BILL to amend and reenact §§ 10.1-1422, 10.1-1422.01, 10.1-1422.03, 10.1-1422.05, and 58.1-1709 of the Code of Virginia, relating to distribution of litter control and recycling funds.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1422, 10.1-1422.01, 10.1-1422.03, 10.1-1422.05, and 58.1-1709 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1422. Further duties of Department.

In addition to the foregoing duties the Department shall:

1. Serve as the coordinating agency between the various industry and business organizations seeking to aid in the recycling and anti-litter effort;

2. Recommend to local governing bodies that they adopt ordinances similar to the provisions of this article;

3. Cooperate with all local governments to accomplish coordination of local recycling and anti-litter efforts;

4. Encourage all voluntary local recycling and anti-litter campaigns seeking to focus the attention of the public on the programs of the Commonwealth to control and remove litter and encourage recycling;

5. Investigate the availability of, and apply for, funds available from any private or public source to be used in the program provided for in this article;

6. Allocate funds annually for the study of available research and development in recycling and litter control, removal, and disposal, as well as study methods for implementation in the Commonwealth of such research and development. In addition, such funds may be used for the development of public educational programs concerning the litter problem and recycling. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the Board or the Department;

7. Investigate the methods and success of other techniques in recycling and the control of litter, and develop, encourage and coordinate programs in the Commonwealth to utilize successful techniques in recycling and the control and elimination of litter; and

8. Expend, after receiving the recommendations of the Advisory Board, at least ~~seventy-five percent~~ 90% of the funds deposited annually into the Fund pursuant to contracts with localities. The Department may enter into contracts with planning district commissions for the receipt and expenditure of funds attributable to localities which designate in writing to the Department a planning district commission as the agency to receive and expend funds hereunder.

§ 10.1-1422.01. Litter Control and Recycling Fund established; use of moneys; purpose of Fund.

A. All moneys collected from the taxes imposed under §§ 58.1-1700 through 58.1-1710 and by the taxes increased by Chapter 616 of the 1977 Acts of Assembly, shall be paid into the treasury and credited to a special nonreverting fund known as the Litter Control and Recycling Fund, which is hereby established. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in the Fund and be credited to it. The Director is authorized to release money from the Fund on warrants issued by the Comptroller after receiving and considering the recommendations of the Advisory Board for the purposes enumerated in subsection B of this section.

B. Moneys from the Fund shall be expended, according to the allocation formula established in subsection C of this section, for the following purposes:

1. Local litter prevention and recycling grants to localities that meet the criteria established in § 10.1-1422.04;

2. ~~Statewide and regional litter~~ Litter prevention and recycling educational program grants to persons ~~localities and nonprofit entities~~ meeting the criteria established in § 10.1-1422.05; and

3. Payment to (i) the Department to process the grants authorized by this article and (ii) the actual administrative costs of the Advisory Board. The Director shall assign one person in the Department to serve as a contact for persons interested in the Fund.

C. All moneys deposited into the Fund shall be expended pursuant to the following allocation formula:

1. ~~Seventy-five~~ Ninety percent for grants made to localities pursuant to subdivision B 1 of this section;

2. ~~Twenty Five~~ percent for ~~statewide and regional educational program litter prevention and recycling~~ grants made pursuant to subdivision B 2 of this section; and

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60 3. ~~Five~~ Up to a maximum of 5% percent for the *actual* administrative expenditures authorized
61 pursuant to subdivision B 3 of this section.

62 § 10.1-1422.03. Membership, meetings, and staffing.

63 A. The Advisory Board shall consist of five persons appointed by the Governor. Three members
64 shall represent persons paying the taxes which are deposited into the Fund and shall include one
65 member appointed from nominations submitted by recognized industry associations representing retailers;
66 one member appointed from nominations submitted by recognized industry associations representing soft
67 drink distributors; and one member appointed from nominations submitted by recognized industry
68 associations representing beer distributors. One member shall be a local litter or recycling coordinator.
69 One member shall be from the general public.

70 B. The initial terms of the members of the Advisory Board shall expire July 1, 1999, and five
71 members shall be appointed or reappointed effective July 1, 1999, for terms as follows: one member
72 shall be appointed for a term of one year; one member shall be appointed for a term of two years; one
73 member shall be appointed for a term of three years; and two members shall be appointed for terms of
74 four years unless found to violate subsection E of this section. Thereafter, all appointments shall be for
75 terms of four years except for appointments to fill vacancies, which shall be for the unexpired term.
76 They shall not receive a per diem, compensation for their service, or travel expenses.

77 C. The Advisory Board shall elect a chairman and vice-chairman annually from among its members.
78 The Advisory Board shall meet at least twice annually on such dates and at such times as they
79 determine. Three members of the Advisory Board shall constitute a quorum.

80 D. Staff support and *actual* associated administrative expenses of the Advisory Board shall be
81 provided by the Department from funds allocated from the Fund.

82 E. Any member who is absent from three consecutive meetings of the Advisory Board, as certified
83 by the Chairman of the Advisory Board to the Secretary of the Commonwealth, shall be dismissed as a
84 member of the Advisory Board. The replacement of any dismissed member shall be appointed pursuant
85 to subsection A of this section and meet the same membership criteria as the member who has been
86 dismissed.

87 § 10.1-1422.05. Litter control and recycling grants.

88 The Director, after receiving the recommendations of the Advisory Board, shall award ~~statewide and~~
89 ~~regional~~ litter prevention and recycling grants to persons for the public purpose of the development and
90 ~~implementation of statewide and regional litter prevention and recycling educational programs. For~~
91 ~~purposes of this section, the term "person" includes any nonprofit entity that the Director finds has~~
92 ~~experience and success in statewide litter control and recycling educational programs and has a~~
93 ~~membership that represents the Commonwealth at large as well as any person meeting the definition of~~
94 ~~"person" in § 10.1-1414 localities that meet the requirements established in § 10.1-1422.04, and to any~~
95 ~~nonprofit entity composed of representatives of localities who meet the criteria established in~~
96 ~~§ 10.1-1422.04. These grants shall be awarded for the public purpose of developing and implementing~~
97 ~~local, regional, and statewide litter control and recycling programs for which the grants provided for in~~
98 ~~§ 10.1-1422.04 are found by the Director to be inadequate.~~ Grants awarded by the Director pursuant to
99 this section shall total the amount of litter control and recycling funds available annually as provided in
100 subdivision B 2 of § 10.1-1422.01.

101 § 58.1-1709. Penalty.

102 A penalty of an amount equal to the taxes due, including all delinquent taxes due under this article,
103 ~~and the amount that the Department of Taxation has expended in collecting these delinquent taxes,~~ shall
104 be added to the tax levied in § 58.1-1707 for failure to pay the tax within the time limits established by
105 regulations.