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HOUSE BILL NO. 3102**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Agriculture, Chesapeake, and Natural Resources
on January 31, 2007)

(Patron Prior to Substitute—Delegate Valentine)

A BILL to amend and reenact § 10.1-2128 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 10.1-2132.1, relating to combined sewer overflow in the City of Lynchburg and the City of Richmond.

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-2128 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 10.1-2132.1 as follows:

§ 10.1-2128. Virginia Water Quality Improvement Fund established; purposes.

A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which shall include, unless otherwise provided in the general appropriation act, 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and 10 percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. ~~Moneys~~ *Except as provided under § 10.1-2132.1, moneys* in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. The purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency; however, nothing in this section shall be construed to prevent the award of a Water Quality Improvement Grant to a local government in connection with point or nonpoint pollution prevention, reduction and control programs or efforts undertaken on land owned by the Commonwealth and leased to the local government. In keeping with the purpose for which the Fund is created, it shall be the policy of the General Assembly to provide annually its share of financial support to qualifying applicants for grants in order to fulfill the Commonwealth's responsibilities under Article XI of the Constitution of Virginia.

C. For the fiscal year beginning July 1, 2005, \$50 million shall be appropriated from the general fund and deposited into the Fund. This appropriation and any amounts appropriated to the Fund in subsequent years in addition to any amounts deposited to the Fund pursuant to the provisions of subsection A of § 10.1-2128 shall be used solely to finance the costs of design and installation of nutrient removal technology at publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers for compliance with the effluent limitations for total nitrogen and total phosphorus as required by the tributary strategy plans or applicable regulatory requirements.

At such time as grant agreements specified in § 10.1-2130 have been signed by every significant discharger and eligible nonsignificant discharger and available funds are sufficient to implement the provisions of such grant agreements, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance shall review the financial assistance provided under this section and determine (i) whether such deposits should continue to be made, (ii) the size of the deposit to be made, (iii) the programs and activities that should be financed by such deposits in the future, and (iv) whether the provisions of this section should be extended.

§ 10.1-2132.1. Combined Sewer Overflow Fund established.

There is hereby created in the Department of the Treasury a special nonreverting fund known as the Combined Sewer Overflow Fund (the Fund). The Fund shall be part of the Virginia Water Quality

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60 *Improvement Fund established under § 10.1-2128. The Combined Sewer Overflow Fund subaccount shall*
61 *be established on the books of the Comptroller. The Comptroller shall deposit into the Fund the first \$7*
62 *million in each fiscal year that is appropriated to the Virginia Water Quality Improvement Fund from:*
63 *(i) annual general fund revenue collections that are in excess of official estimates as described in*
64 *subsection A of § 10.1-2128 or (ii) any unreserved general fund balance whose reappropriation is not*
65 *required as described in subsection A of § 10.1-2128. The combined amount that shall be deposited into*
66 *the Fund from these two sources of appropriations in each fiscal year shall not exceed \$7 million. In no*
67 *event, however, shall the Comptroller deposit into the Fund any moneys from these sources in fiscal*
68 *years subsequent to the 2016-2017 fiscal year, unless, as of June 30, 2017, a combined amount less*
69 *than \$70 million has been deposited into the Fund from these two sources of appropriations, in which*
70 *case the Comptroller shall continue making such annual deposits into the Fund until a combined*
71 *amount of \$70 million has been deposited into the Fund from these two sources of appropriations. The*
72 *Fund shall also consist of all donations, gifts, bequests, grants, endowments, and other moneys given,*
73 *bequeathed, granted, or otherwise made available to the Fund. Interest earned on funds within the Fund*
74 *shall remain in and be credited to the Fund. Any sums remaining in the Fund, including interest*
75 *thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.*
76 *To the extent practical, moneys in the Fund may be used to match federal funds allocated for the*
77 *benefit of combined sewer overflow (CSO) controls. However, moneys in the Fund shall be used solely*
78 *by the relevant officers of the City of Lynchburg and the City of Richmond for purposes of eliminating*
79 *CSO in each city. The Fund shall be administered equally for the benefit of each city by the Department*
80 *of Environmental Quality, which shall approve all payments to such officers for the purposes described*
81 *herein. Expenditures and disbursements from the Fund shall be made by the State Treasurer on*
82 *warrants issued by the Comptroller upon the written request of the Director of the Department of*
83 *Environmental Quality. The Director shall consult with the relevant officers of the City of Lynchburg*
84 *and the City of Richmond for purposes of the timing of payments from the Fund. The Fund shall not be*
85 *used for purposes of replacing or otherwise reducing any general, nongeneral, or special funds*
86 *allocated or appropriated to or on behalf of the City of Lynchburg and the City of Richmond.*
87 *For purposes of this section, "combined sewer overflow" means the same as that term is defined in*
88 *§ 62.1-241.11.*