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SENATE BILL NO. 1115

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact § 10.1-1020 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1022.2, relating to land conservation.

Patron—Ticer

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1020 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1022.2 as follows:

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

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

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

2. Providing grants to state agencies, including the Virginia Outdoors Foundation, and matching grants to other public bodies and holders for acquiring fee simple title or other rights, including the purchase of development rights, to interests or privileges in real property for the protection or preservation of ecological, cultural or historical resources, lands for recreational purposes, and lands for threatened or endangered species, fish and wildlife habitat, natural areas, agricultural and forestal lands and open space. The Board shall establish criteria for making grants from the Fund, including procedures for determining the amount of each grant and the required match. The criteria shall include provisions for grants to localities for purchase of development rights programs.

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

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

C. In any year in which the Fund contains less than \$10 million in new deposits on September 1, and after an allocation for administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the Fund shall be allocated as follows:

1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

2. Seventy-five percent shall be divided equally among the following four grant uses: (i) natural area protection; (ii) open spaces and parks, including but not limited to, land for public hunting, fishing or wildlife watching; (iii) farmlands and forest preservation; and (iv) historic area preservation. Of the amount allocated as provided in this subdivision, at least one third shall be used to secure easements to be held or co-held by a public body.

D. In any year in which the Fund contains \$10 million or more in new deposits on September 1, and after an allocation for administrative expenses has been made as provided in subsection G, the remaining unrestricted funds in the Fund shall be allocated as follows:

1. Twenty-five percent shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands

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59 Preservation Trust Fund to be used as provided in § 10.1-1801.1; and

60 2. The remaining funds shall be divided equally among the following ~~five~~ *six* grant uses: (i) natural
61 area protection; (ii) open spaces ~~and parks~~; (iii) *public access parkland*, including but not limited to,
62 land for ~~public~~ hunting, fishing, or wildlife watching; ~~(iii)~~(iv) farmland preservation; ~~(iv)~~(v) forestland
63 conservation; and ~~(v)~~(vi) historic area preservation.

64 E. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall
65 not revert to the general fund. Interest earned on moneys received by the Fund other than bond proceeds
66 shall remain in the Fund and be credited to it. Any funds transferred to the Open-Space Lands
67 Preservation Trust Fund pursuant to this section and not disbursed or committed to a project by the end
68 of the fiscal year in which the funds were transferred shall be returned to the Virginia Land
69 Conservation Fund and shall be redistributed among the authorized grant uses during the next grant
70 cycle.

71 F. A portion of the Fund, not to exceed twenty percent of the annual balance of unrestricted funds,
72 may be used to develop properties purchased in fee simple, or through the purchase of development
73 rights, with the assets of the Fund for public use including, but not limited to, development of trails,
74 parking areas, infrastructure, and interpretive projects or to conduct environmental assessments or other
75 preliminary evaluations of properties prior to the acquisition of any property interest.

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

82 H. The Comptroller shall maintain the restricted funds and the unrestricted funds in separate
83 accounts.

84 I. For the purposes of this section, "public body" shall have the meaning ascribed to it in
85 § 10.1-1700, and "holder" shall have the meaning ascribed to it in § 10.1-1009.

86 § 10.1-1022.2. *Expenditure of funds for public access parkland.*

87 A. *The Foundation shall weigh the following factors when considering a grant application for the*
88 *purchase of public access parkland in any year in which the Fund contains \$10 million or more in new*
89 *deposits on September 1 and, pursuant to subsection D of § 10.1-1020, unrestricted moneys in the Fund*
90 *are allocated to grants for the purchase of public access parkland:*

91 1. *The necessary commitment and financial capacity of the applicant to manage the property as*
92 *parkland;*

93 2. *The adequacy of the budget for the proposed purchase and ongoing management of the property;*

94 3. *The availability of alternative public parks in the planning districts where the property is located;*

95 4. *The number of people in an immediate geographical area that will have access to the property*
96 *rather than the size of the property;*

97 5. *The support of the jurisdiction where the property is located; and*

98 6. *The variety of recreational opportunities provided by the property.*

99 B. *Matching grant funds provided pursuant to this section shall be spent by the grantee within two*
100 *years; however, the Foundation may grant an extension of up to one year.*