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## SENATE BILL NO. 1428

Offered January 23, 2015

A *BILL to establish a funding source to localities in coastal Virginia for flood resilience by requiring the Governor to join the Regional Greenhouse Gas Initiative.*

Patron—McEachin

Referred to Committee on Agriculture, Conservation and Natural Resources

Whereas, the National Oceanic and Atmospheric Administration reports that the number of "nuisance flooding" days in Norfolk has increased 325 percent since the 1960s; and

Whereas, House Joint Resolution No. 16 (2014) and Senate Joint Resolution No. 3 (2014) established a joint subcommittee to formulate recommendations for the development of a comprehensive and coordinated planning effort to address recurrent flooding; and

Whereas, House Joint Resolution No. 50 (2012) and Senate Joint Resolution No. 76 (2012) requested the Virginia Institute of Marine Science (VIMS) to study strategies for adaptation to prevent recurrent flooding in Tidewater and Eastern Shore Virginia localities; and

Whereas, the resulting VIMS report, entitled "Recurrent Flooding Study for Tidewater Virginia," published as Senate Document No. 3 (2013), states: "Recurrent flooding is a significant issue in all localities in Virginia coastal localities and one that is predicted to become worse over reasonable planning horizons (20-50 years)."; and

Whereas, the VIMS report found that "[i]mpacts from flooding can range from temporary road closures to the loss of homes, property and life. In coastal Virginia, the cost of large storm damage can range from millions to hundreds of millions of dollars per storm."; and

Whereas, the Secure Commonwealth Panel, established by § 2.2-222.3 to "monitor and assess the implementation of statewide prevention, preparedness, response, and recovery initiatives and where necessary review, evaluate, and make recommendations relating to the emergency preparedness of government at all levels in the Commonwealth," created a Recurrent Flooding Sub-Panel to further assess the threat of recurrent flooding and sea level rise in the Commonwealth; and

Whereas, the Secure Commonwealth Panel Recurrent Flooding Sub-Panel's report, entitled "Recommendations to the Secure Commonwealth Panel on the Issue of Sea Level Rise and Recurrent Flooding in Coastal Virginia" (2014), states that "[t]he Commonwealth should identify or establish a fund to assist localities and regions [to] meet their match requirements and otherwise assist them with the costs of adaptation planning."; and

Whereas, the City of Norfolk hired the U.S. branch of the Dutch engineering firm Fugro, which estimated a cost of at least \$1 billion to fulfill the firm's adaptation and protection plans in Norfolk; and

Whereas, a number of homeowners, businesses, schools, and health care facilities in Virginia's coastal communities regularly battle issues associated with recurrent flooding and the threat of increasing sea level rise and severe storms.

Whereas, the general purposes of this act are to (i) establish a revolving fund to serve as a consistent revenue stream to assist counties, cities, and towns in the Hampton Roads region with the implementation of sea level rise and recurrent flooding adaptation efforts; (ii) invest in the promotion, development, and implementation of statewide distributed renewable energy development and energy efficiency programs; (iii) reduce greenhouse gas emissions from energy use in Virginia; and (iv) provide economic development assistance for families, businesses, and localities in Southwest Virginia to offset negative economic impacts associated with reduced fossil fuel production; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. A. Definitions.**

"Commission" means the State Corporation Commission.

"Department" means the Department of Environmental Quality.

"Distributed Renewable Energy Program" means distributed renewable, non-carbon-emitting energy technologies not paid for by utility ratepayer funds.

"DMME" means the Department of Mines, Minerals and Energy.

"Energy efficiency program" has the same meaning as provided in § 56-576.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum of understanding (MOU) between signatory states dated December 20, 2005, and as may be amended, and corresponding model rule that established a regional CO2 electric power sector cap and trade program.

B. Not later than June 30, 2016, the Governor shall include the Commonwealth of Virginia as a full

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59 participant in RGGI.

60 C. Not later than June 30, 2016, the Department shall adopt rules and regulations in compliance  
61 with RGGI, establishing a carbon dioxide cap and trade program to reduce emissions released by  
62 electric generating stations, and permit holders of carbon dioxide allowances to trade them in a  
63 regional market established through RGGI.

64 D. The Department's rules and regulations for RGGI participation shall specify and ensure that  
65 revenues associated with the sale of carbon allowances under the RGGI program are used exclusively  
66 for the purposes and amounts contained in this act.

67 E. The proceeds from the sale of RGGI carbon allowances shall be deposited in full to the  
68 Commonwealth Resilience Fund as created by this act.

69 F. If RGGI expires or ceases for any reason and there is a successor organization in place with  
70 similar goals and purpose, the Governor is encouraged to join the state into the successor organization.

71 § 2. Creation of Commonwealth Resilience Fund and allocation of RGGI allowances.

72 A. There is hereby established a Commonwealth Resilience Fund. The Department shall create and  
73 manage the Commonwealth Resilience Fund to be used for the express purposes contained in this act.

74 B. The Commonwealth Resilience Fund shall consist of all RGGI proceeds received in accordance  
75 with this act as well as any funds appropriated by the General Assembly.

76 C. The Department's rules and regulations for RGGI participation shall specify that the Department  
77 shall seek to sell 100 percent of all allowances issued under the RGGI program each year, unless the  
78 Department finds that doing so will have a negative impact on the value of auction allowances and  
79 result in a net loss of consumer benefit.

80 D. The Department shall develop programs for implementing the goals of the Commonwealth  
81 Resilience Fund where appropriate, and shall accept funding proposals from cities, municipalities,  
82 counties, state agencies, businesses, and other entities for use of the Commonwealth Resilience Fund.  
83 The amount of individual proposals shall be determined by the Department in accordance with the total  
84 Commonwealth Resilience Fund disbursement guidelines as follows:

85 1. Not less than 50 percent of the revenue shall be credited to an account to assist cities, localities,  
86 and municipalities in Hampton Roads and the coastal region of the Commonwealth, to be defined by the  
87 Department, with sea level rise and recurrent flooding adaptation and resilience efforts.

88 2. In consultation with DMME, 30 percent of the revenue shall be credited to an energy efficiency  
89 and conservation programs account to provide energy efficiency and conservation grants and support  
90 the development and promotion of energy efficiency programs and conservation in the Commonwealth.  
91 Funding proposals for energy efficiency programs are subject to approval by DMME. Funding may be  
92 directed toward residential users, state or local governments, nonprofits, and industrial and commercial  
93 customers. Not less than 50 percent shall be directed towards low- and moderate-income efficiency and  
94 conservation programs accounts for:

95 a. The low-income residential sector at no cost to the participants of the programs, projects, or  
96 activities; and

97 b. The moderate-income residential sector.

98 3. In consultation with DMME, 10 percent of the revenue shall be credited to an account to provide  
99 economic development, education, and workforce training programs for families and businesses in  
100 Southwest Virginia for the purpose of revitalizing communities negatively impacted by the decline of  
101 fossil fuel production, the guidelines of which shall be determined by DMME.

102 4. In consultation with DMME, five percent of the revenue shall be credited to a renewable energy  
103 generation programs account to provide renewable energy grants and support the development and  
104 promotion of Distributed Renewable Energy Programs in the Commonwealth. Funding proposals for  
105 Distributed Renewable Energy Programs are subject to approval by DMME.

106 5. Not more than five percent of the Commonwealth Resilience Fund shall be used to cover  
107 reasonable costs of the Department and DMME in the administration of this act. Any unused  
108 administrative revenue shall be directed to subdivision D 1.

109 E. Beginning in January of 2018, the Department shall prepare an annual written report describing  
110 Virginia's participation in the RGGI program, the revenues collected and expenditures made under the  
111 program, and any recommendations to amend state law relating to the program. The report shall be  
112 submitted to the General Assembly by January 1 each year.

113 F. Excluding uses pursuant to subdivision D 1, in the event that the Department finds that a  
114 significant amount of unused and unneeded dollars have accumulated in the Commonwealth Resilience  
115 Fund, the Department may request the Commission, and the Commission shall have the authority, to  
116 refund any or all of the unused and unneeded dollars in the Commonwealth Resilience Fund to  
117 ratepayers in a timely manner.