

16102606D

HOUSE BILL NO. 351

Offered January 13, 2016

Prefiled January 5, 2016

A BILL to establish a statewide funding source to affected localities for flood resilience by joining the Regional Greenhouse Gas Initiative; Virginia Alternative Energy and Coastal Protection Act.

Patrons—Villanueva, Helsel, Mason, Murphy and Simon

Referred to Committee on Commerce and Labor

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 of the Code of Virginia 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 localities throughout Virginia regularly battle issues associated with recurrent flooding and the threat of increasing sea level rise and severe storms; and

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 Commonwealth affected by recurrent flooding, sea level rise, and flooding from severe weather events with the implementation of resilience efforts; (ii) invest in the promotion, development, and implementation of statewide distributed renewable energy development and energy efficiency programs; (iii) limit greenhouse gas emissions from the energy sector 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. Virginia Alternative Energy and Coastal Protection Act.

A. As used in this act:

"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 of the Code of Virginia.

"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,

INTRODUCED

HB351

59 and corresponding model rule that established a regional CO2 electric power sector cap and trade
60 program.

61 B. Not later than June 30, 2017, the Governor shall seek to include the Commonwealth as a full
62 participant in RGGI or other carbon trading program with an open auction of carbon allowances.

63 C. If the Governor opts to include Virginia as a participant in a carbon trading program other than
64 RGGI, not later than June 30, 2017, the Department shall adopt rules and regulations in compliance
65 with the joined program consistent with the goals and purpose of this act.

66 D. The Department shall have the following duties in the administration of RGGI:

67 1. Not later than June 30, 2017, the Department shall adopt rules and regulations that establish a
68 carbon dioxide cap and trade program to reduce emissions released by electric generating stations and
69 permit holders of carbon dioxide allowances to trade them in a regional market established through
70 RGGI. Such rules and regulations shall be in compliance with RGGI or other carbon program to which
71 Virginia is a participant; and

72 2. Not later than June 30, 2017, the Department shall adopt rules and regulations that specify and
73 ensure that revenues associated with the sale of carbon allowances under the RGGI program are used
74 exclusively for the purposes and amounts contained in this act.

75 E. The Department shall deposit all proceeds from the sale of RGGI carbon allowances to the
76 Commonwealth Resilience Fund as created by this act.

77 F. If RGGI expires or ceases for any reason and there is a successor organization in place with
78 similar goals and purpose, the Governor is encouraged to seek to include the Commonwealth as a
79 participant in the successor organization.

80 § 2. Commonwealth Resilience Fund; allocation of RGGI allowances.

81 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
82 Commonwealth Resilience Fund, referred to in this section as "the Fund." The Fund shall be established
83 on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and
84 be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each
85 fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall
86 be used solely for the purposes set forth in this act. Expenditures and disbursements from the Fund shall
87 be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by
88 the Director of the Department.

89 B. All RGGI proceeds received in accordance with this act as well as any funds appropriated by the
90 General Assembly shall be paid into the state treasury and credited to the Fund.

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

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

99 1. Not less than 50 percent of the revenue shall be credited to an account to assist cities, counties,
100 and towns affected by recurrent flooding, sea level rise, and flooding from severe weather events with
101 adaptation and resilience efforts.

102 2. In consultation with DMME, 30 percent of the revenue shall be credited to an energy efficiency
103 and conservation programs account to provide energy efficiency and conservation grants and support
104 the development and promotion of energy efficiency programs and conservation in the Commonwealth.
105 Funding proposals for energy efficiency programs are subject to approval by DMME. Funding may be
106 directed toward residential users, state or local governments, nonprofit nongovernment organizations,
107 and industrial and commercial customers. Not less than 50 percent shall be directed toward low-income
108 and moderate-income efficiency and conservation programs accounts for:

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

111 b. The moderate-income residential sector.

112 3. Ten percent of the revenue shall be directed to the Southwest Economic Development program of
113 the Tobacco Region Revitalization Commission to provide economic development, education, and
114 workforce training assistance for families and businesses in Southwest Virginia for the purpose of
115 revitalizing communities negatively affected by the decline of fossil fuel production.

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

120 5. Not more than five percent of the Commonwealth Resilience Fund shall be used to cover

reasonable costs of the Department and DMME in the administration of this act. Any unused administrative revenue shall be credited as provided in subdivision 1.

E. Fund disbursement requirements as set forth in subsection D shall expire on July 1, 2022, and no disbursements of any funds shall be made from the Fund by the Department after such date unless subsection D is reauthorized or amended by the General Assembly on the basis of the Commonwealth's public policy needs or objectives.

F. Beginning in January 2019, the Department shall prepare an annual written report describing the Commonwealth's participation in RGGI, the revenues collected and expenditures made under RGGI by the Commonwealth, and any recommendations to amend state law relating to RGGI. The report shall be submitted to the General Assembly by January 1 each year.

G. Excluding uses pursuant to subdivision D 1, if the Department finds that significant unused and unneeded moneys have accumulated in Fund, the Department may request that the Commission, and upon receipt of such request the Commission shall have the authority to, refund any or all of the unused and unneeded moneys in the Fund to customers of electric utilities regulated by the Commission in a timely manner, following transfer of such money to the Commission. The Commission shall by regulation adopt procedures through which such electric utilities, upon receipt from the Commission of the moneys to be refunded, shall refund the moneys to their customers on a proportionate basis based on electricity consumption, either by a direct payment or by a bill credit.