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SENATE BILL NO. 571

Offered January 13, 2016

Prefiled January 13, 2016

A *BILL* to establish a statewide funding source to affected localities for flood resilience by joining the regional greenhouse gas initiative.

 Patron—McEachin

 Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. § 1. A. The General Assembly finds that:

1. The National Oceanic and Atmospheric Administration reports that the number of "nuisance flooding" days in Norfolk has increased 325 percent since the 1960s.

2. House Joint Resolution 16 (2014) and Senate Joint Resolution 3 (2014) established a joint subcommittee to study coastal adaptation efforts and develop a comprehensive set of recommendations to address recurrent flooding.

3. House Joint Resolution 50 (2012) and Senate Joint Resolution 76 (2012) directed the Virginia Institute of Marine Science (VIMS) to study strategies for adaptation to prevent recurrent flooding in Tidewater and Eastern Shore Virginia localities.

4. The resulting VIMS report, entitled "Recurrent Flooding Study for Tidewater Virginia," published as Senate Document 3 (2013), stated that recurrent flooding impacts all localities in Virginia's coastal zone and is predicted to become worse over reasonable planning horizons (20 to 50 years).

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

6. The Secure Commonwealth Panel, established by § 2.2-223.3 to "monitor and assess the implementation of statewide prevention, preparedness, response, and recover initiatives and where necessary to 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.

7. 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."

8. 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.

9. A number of homeowners, businesses, schools, and healthcare facilities in localities throughout Virginia regularly battle issues associated with recurrent flooding and the threat of increasing sea level rise and severe storms.

B. The general purposes of this Act are to:

1. Establish a revolving fund to serve as a consistent revenue stream to assist cities, towns, and localities in the Commonwealth affected by recurrent flooding, sea level rise, and flooding from severe weather events with the implementation of resilience efforts.

2. Invest in the promotion, development, and implementation of statewide distributed renewable energy development and energy efficiency programs.

3. Limit greenhouse gas emissions from the energy sector in Virginia.

4. Provide economic development assistance for families, businesses, and localities in Southwest Virginia due to negative economic impacts associated with reduced fossil fuel production.

C. 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,

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

61 § 2. 1. Not later than June 30, 2017 the Governor shall seek to include the Commonwealth of
62 Virginia as a full participant in RGGI or other carbon trading program with an open auction of carbon
63 allowances.

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

67 3. The Department shall have the following duties in the administration of RGGI:

68 a. Not later than June 30, 2017, adopt rules and regulations in compliance with RGGI, establishing
69 a carbon dioxide cap and trade program to reduce emissions released by electric generating stations,
70 and permit holders of carbon dioxide allowances to trade them in a regional market established through
71 RGGI.

72 b. Not later than June 30, 2017, develop rules and regulations that specifies and ensures that
73 revenues associated with the sale of carbon allowances under the RGGI program are used exclusively
74 for the purposes and amounts contained in this Act.

75 c. Deposit in full the proceeds from the sale of RGGI carbon allowances into the Commonwealth
76 Resilience Fund as created by this Act.

77 4. 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 join the state into the successor organization.

79 § 3. Creation of Commonwealth Resilience Fund and allocation of RGGI allowances.

80 1. There is hereby established a Commonwealth Resilience Fund. The Department shall create and
81 manage the Commonwealth Resilience Fund to be used for the express purposes contained in this Act.

82 2. The Commonwealth Resilience Fund shall consist of all RGGI proceeds received in accordance
83 with this Act as well as any funds appropriated by the General Assembly.

84 3. The Department's rules and regulations for RGGI participation shall specify that the Department
85 shall seek to sell one hundred percent of all allowances issued under the RGGI program each year,
86 unless the Department finds that doing so will have a negative impact on the value of auction
87 allowances and result in a net loss of consumer benefit.

88 4. The Department shall develop programs for implementing the goals of the Commonwealth
89 Resilience Fund where appropriate, and shall accept funding proposals from cities, municipalities,
90 counties, state agencies, businesses, and other entities for use of the Commonwealth Resilience Fund.
91 The amount of individual proposals shall be determined by the Department in accordance with the total
92 Commonwealth Resilience Fund disbursement guidelines as follows:

93 a. Not less than fifty percent of the revenue shall be credited to an account to assist cities, localities,
94 and municipalities affected by recurrent flooding, sea level rise, and flooding from severe weather events
95 with adaptation and resilience efforts

96 b. In consultation with DMME, thirty percent of the revenue shall be credited to an energy efficiency
97 and conservation programs account to provide energy efficiency and conservation grants and support
98 the development and promotion of Energy Efficiency Programs and conservation in the Commonwealth.
99 Funding proposals for Energy Efficiency Programs are subject to approval by DMME. Funding may be
100 directed toward residential users, state or local governments, non-profits, industrial, and commercial
101 customers. Not less than 50 percent shall be directed towards low and moderate income efficiency and
102 conservation programs accounts for:

103 (i) the low-income residential sector at no cost to the participants of the programs, projects, or
104 activities; and

105 (ii) the moderate-income residential sector;

106 c. Ten percent of the revenue shall be directed to the Southwest Economic Development program of
107 the Tobacco Region Revitalization Commission to provide economic development, education, and
108 workforce training assistance for families and businesses in Southwest Virginia for the purpose of
109 revitalizing communities negatively impacted by the decline of fossil fuel production.

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

114 e. Not more than five percent of the Commonwealth Resilience Fund shall be used to cover
115 reasonable costs of the Department and DMME in the administration of this Act. Any unused
116 administrative revenue shall be directed to provision 4a of § 3 of this Act.

117 5. The Commonwealth Resilience Fund disbursement requirements as set forth in subsection 4 of § 3
118 of this Act shall be null and without the effect of law on June 30, 2022, and shall require the General
119 Assembly to reauthorize or amend subsection 4 of § 3 of this Act based on the Commonwealth's public
120 policy needs or objectives prior to disbursements of any funds from the Commonwealth Resilience Fund

121 by the Department after this date.

122 6. Beginning in January of 2019, the Department shall prepare an annual written report describing
123 Virginia's participation in the RGGI program, the revenues collected and expenditures made under the
124 program, and any recommendations to amend state law relating to the program. The report shall be
125 submitted to the General Assembly by January 1st each year.

126 7. Excluding provision 4a of § 3 of this Act, in the event that the Department finds that a significant
127 amount of unused and unneeded dollars have accumulated in the Commonwealth Resilience Fund, the
128 Department may request the Commission, and the Commission shall have the authority, to refund any or
129 all of the unused and unneeded dollars in the Commonwealth Resilience Fund to ratepayers in a timely
130 manner.