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SENATE BILL NO. 1496

Offered January 18, 2017

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—Lewis and Mason; Delegate: Villanueva

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 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.

"Fund" means the Virginia Shoreline Resiliency Fund created under § 10.1-603.25 of the Code of Virginia.

"Regional Greenhouse Gas Initiative" or "RGGI" means the program to implement the memorandum

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59 of understanding (MOU) between signatory states dated December 20, 2005, and as may be amended,
60 and corresponding model rule that established a regional CO2 electric power sector cap and trade
61 program.

62 B. Not later than June 30, 2018, the Governor shall seek to include the Commonwealth as a full
63 participant in RGGI or other carbon trading program with an open auction of carbon allowances.

64 C. If the Governor opts to include Virginia as a participant in a carbon trading program other than
65 RGGI, not later than June 30, 2018, the Department shall adopt rules and regulations in compliance
66 with the joined program consistent with the goals and purpose of this act.

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

68 1. Not later than June 30, 2018, the Department shall adopt rules and regulations that establish a
69 carbon dioxide cap and trade program to reduce emissions released by electric generating stations and
70 permit holders of carbon dioxide allowances to trade them in a regional market established through
71 RGGI. Such rules and regulations shall be in compliance with RGGI or other carbon program to which
72 Virginia is a participant; and

73 2. Not later than June 30, 2018, the Department shall adopt rules and regulations that specify and
74 ensure that revenues associated with the sale of carbon allowances under the RGGI program are used
75 exclusively for the purposes and amounts contained in this act.

76 E. The Department shall deposit all proceeds from the sale of RGGI carbon allowances to the Fund.

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. Proceeds from disposition of RGGI allowances.

81 A. All RGGI proceeds received in accordance with this act as well as any funds appropriated by the
82 General Assembly for the purposes of implementing this act shall be paid into the state treasury and
83 credited to the Fund.

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

88 C. Beginning in January 2020, the Department shall prepare an annual written report describing the
89 Commonwealth's participation in RGGI, the revenues collected and deposited in the Fund, and
90 expenditures made under RGGI by the Commonwealth, and any recommendations to amend state law
91 relating to RGGI. The report shall be submitted to the General Assembly by January 1 each year.