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SENATE BILL NO. 1518

Offered January 19, 2017

A *BILL to amend and reenact §§ 10.1-1411, 10.1-1414, 10.1-1415, 10.1-1420, 10.1-1422, and 10.1-1422.04 of the Code of Virginia, relating to recycling; beneficial use.*

Patron—Lewis

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1411, 10.1-1414, 10.1-1415, 10.1-1420, 10.1-1422, and 10.1-1422.04 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1411. Regional and local solid waste management plans.

A. The Board is authorized to promulgate regulations specifying requirements for local and regional solid waste management plans.

To implement regional plans, the Governor may designate regional boundaries. The governing bodies of the counties, cities and towns within any region so designated shall be responsible for the development and implementation of a comprehensive regional solid waste management plan in cooperation with any planning district commission or commissions in the region. Where a county, city or town is not part of a regional plan, it shall develop and implement a local solid waste management plan in accordance with the Board's regulations. For purposes of this section, each region or locality so designated shall constitute a solid waste planning unit.

B. The Board's regulations shall include all aspects of solid waste management including waste reduction, recycling and reuse, storage, treatment, and disposal and shall require that consideration be given to the handling of all types of nonhazardous solid waste generated in the region or locality. In promulgating such regulations, the Board shall consider urban concentrations, geographic conditions, markets, transportation conditions, and other appropriate factors and shall provide for reasonable variances and exemptions thereto, as well as variances or exemptions from the minimum recycling rates specified herein when market conditions beyond the control of a county, city, town, or region make such mandatory rates unreasonable.

C. The Board's regulations shall permit the following credits, provided that the aggregate of all such credits permitted shall not exceed five percentage points of the annual municipal solid waste recycling rate achieved for each solid waste planning unit:

1. A credit of one ton for each ton of recycling residue generated in Virginia and deposited in a landfill permitted under subsection M of § 10.1-1408.1;

2. A credit of two percentage points of the minimum recycling rate mandated for the solid waste planning unit for a source reduction program that is implemented with the solid waste planning unit. The existence and operation of such a program shall be certified by the solid waste planning unit;

3. A credit of one ton for each ton of any solid waste material that is reused; and

4. A credit of one ton for each ton of any nonmunicipal solid waste material that is recycled.

D. Each solid waste planning unit shall maintain a minimum recycling rate for municipal solid waste generated within the solid waste planning unit pursuant to the following schedule:

1. Except as provided in subdivision 2, each solid waste planning unit shall maintain a minimum 25 percent recycling rate; or

2. Each solid waste planning unit shall maintain a minimum 15 percent recycling rate if it has (i) a population density rate of less than 100 persons per square mile according to the most recent United States Census, or (ii) a not seasonally adjusted civilian unemployment rate for the immediately preceding calendar year that is at least 50 percent greater than the state average as reported by the Virginia Employment Commission for such year.

After July 1, 2007, no permit for a new sanitary landfill, incinerator, or waste-to-energy facility, or for an expansion, increase in capacity, or increase in the intake rate of an existing sanitary landfill, incinerator, or waste-to-energy facility shall be issued until the solid waste planning unit within which the facility is located has a solid waste management plan approved by the Board in accordance with the regulations, except as provided in this subsection. Failure to attain a mandated municipal solid waste recycling rate shall not be the sole cause for the denial of any permit or permit amendment, except as provided herein for sanitary landfills, incinerators, or waste-to-energy facilities, provided that all components of the solid waste management plan for the planning unit are in compliance with the regulations. The provisions of this subsection shall not be applicable to permits or permit amendments required for the operation or regulatory compliance of any existing facility, regardless of type, nor shall

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59 it be cause for the delay of any technical or administrative review of pending amendments thereto.

60 E. Each solid waste planning unit or locality with a population of greater than 100,000 persons
61 according to the most recent United States census shall prepare and submit a recycling survey report to
62 the Department of Environmental Quality annually. Each solid waste planning unit or locality with a
63 population of 100,000 or less according to the most recent United States census shall prepare and submit
64 a recycling survey report to the Department of Environmental Quality once every ~~four~~ two years.
65 Recycling survey reports submitted once every ~~four~~ two years shall only be required to include
66 information for the most recent single year. The first reports submitted pursuant to this section shall be
67 submitted by April 30, ~~2013~~ 2019, for the reporting year ending December 31, ~~2012~~ 2018.

68 F. If a county levies a consumer utility tax and the ordinance provides that revenues derived from
69 such source, to the extent necessary, be used for solid waste disposal, the county may charge a town or
70 its residents, establishments and institutions an amount not to exceed their pro rata cost, based upon
71 population for such solid waste management if the town levies a consumer utility tax. This shall not
72 prohibit a county from charging for disposal of industrial or commercial waste on a county-wide basis,
73 including that originating within the corporate limits of towns.

74 **§ 10.1-1414. Definitions.**

75 As used in this article, unless the context requires a different meaning:

76 "Advisory Board" means the Litter Control and Recycling Fund Advisory Board;

77 "*Beneficial use*" means the use or reuse of a material that otherwise would become solid waste under
78 this chapter in a manufacturing process or as landfill cover, aggregate substitute, fuel substitute, or fill
79 material.

80 "Disposable package" or "container" means all packages or containers intended or used to contain
81 solids, liquids or materials and so designated;

82 "Fund" means the Litter Control and Recycling Fund;

83 "Litter" means all waste material disposable packages or containers but not including the wastes of
84 the primary processes of mining, logging, sawmilling, farming, or manufacturing;

85 "Litter bag" means a bag, sack, or durable material which is large enough to serve as a receptacle for
86 litter inside a vehicle or watercraft which is similar in size and capacity to a state approved litter bag;

87 "Litter receptacle" means containers acceptable to the Department for the depositing of litter;

88 "Person" means any natural person, corporation, association, firm, receiver, guardian, trustee,
89 executor, administrator, fiduciary, representative or group of individuals or entities of any kind;

90 "Public place" means any area that is used or held out for use by the public, whether owned or
91 operated by public or private interests;

92 "Recycling" means the process of separating a given waste material from the waste stream and
93 processing it so that it may be used again as a raw material for a product which may or may not be
94 similar to the original product;

95 "Sold within the Commonwealth" or "sales of the business within the Commonwealth" means all
96 sales of retailers engaged in business within the Commonwealth and in the case of manufacturers and
97 wholesalers, sales of products for use and consumption within the Commonwealth;

98 "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by
99 which any person or property may be transported upon a public highway, except devices moved by
100 human power or used exclusively upon stationary rails or tracks; and

101 "Watercraft" means any boat, ship, vessel, barge, or other floating craft.

102 **§ 10.1-1415. Litter Control Program.**

103 The Department shall support local, regional and statewide programs to control, prevent, and
104 eliminate litter from the Commonwealth and to encourage the recycling *and beneficial use* of discarded
105 materials to the maximum practical extent. Every department of state government and all governmental
106 units and agencies of the Commonwealth shall cooperate with the Department in the administration and
107 enforcement of this article.

108 This article is intended to add to and coordinate existing litter control removal and recycling efforts,
109 and not to terminate existing efforts nor, except as specifically stated, to repeal or affect any state law
110 governing or prohibiting litter or the control and disposition of waste.

111 **§ 10.1-1420. Litter and recycling bags.**

112 The Department may design and produce a litter bag and recycling bags bearing the state anti-litter
113 symbol or other recycling symbols and a statement of the penalties prescribed for littering. Such litter
114 bags may be distributed by the Department of Motor Vehicles at no charge to the owner of every
115 licensed vehicle in the Commonwealth at the time and place of the issuance of a license or renewal
116 thereof. The Department may make the litter bags available to the owners of watercraft in the
117 Commonwealth and may also provide the litter bags at no charge to tourists and visitors at points of
118 entry into the Commonwealth and at visitor centers to the operators of incoming vehicles and watercraft.

119 **§ 10.1-1422. Further duties of Department.**

120 In addition to the foregoing duties the Department shall:

1. Serve as the coordinating agency between the various industry and business organizations seeking to aid in the recycling, *beneficial use*, and anti-litter effort;

2. Recommend to local governing bodies that they adopt ordinances similar to the provisions of this article;

3. Cooperate with all local governments to accomplish coordination of local recycling, *beneficial use*, and anti-litter efforts;

4. Encourage all voluntary local recycling, *beneficial use*, and anti-litter campaigns seeking to focus the attention of the public on the programs of the Commonwealth to control and remove litter and encourage recycling;

5. Investigate the availability of, and apply for, funds available from any private or public source to be used in the program provided for in this article;

6. Allocate funds annually for the study of available research and development in recycling, *beneficial use*, and litter control, removal, and disposal, as well as study methods for implementation in the Commonwealth of such research and development. In addition, such funds may be used for the development of public educational programs concerning the litter problem and recycling. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the Board or the Department;

7. Investigate the methods and success of other techniques in recycling and the control of litter, and develop, encourage and coordinate programs in the Commonwealth to utilize successful techniques in recycling and the control and elimination of litter; and

8. Expend, after receiving the recommendations of the Advisory Board, at least 95% of the funds deposited annually into the Fund pursuant to contracts with localities. The Department may enter into contracts with planning district commissions for the receipt and expenditure of funds attributable to localities which designate in writing to the Department a planning district commission as the agency to receive and expend funds hereunder.

§ 10.1-1422.04. Local litter prevention and recycling grants; eligibility and funding process.

The Director shall award local litter prevention and recycling grants to localities that apply for such grants and meet the eligibility requirements established in the Department's Guidelines for Litter Prevention and Recycling Grants (DEQ-LPR-2) ~~which~~ *that* were in effect on January 1, 1995, and as *they* may be amended by the Advisory Board after notice and opportunity to be heard by persons interested in grants awarded pursuant to this section. *A grant proposal that includes provisions to increase plastic, glass, fiber, or metal recycling for beneficial use and litter prevention through a public-private cooperative program shall be deemed to meet the eligibility requirements.* Grants awarded by the Director shall total the amount of Litter Control and Recycling Funds available annually as provided in subdivision B 1 of § 10.1-1422.01.

2. That the Virginia Department of Environmental Quality (the Department) shall provide to the General Assembly not later than October 1, 2018, an evaluation of Virginia's solid waste recycling rates and recommendations for the increase of such rates over the following 10 years in order to provide for industrial beneficial uses and public litter reduction. The evaluation shall consider incentive-based strategies, including the granting of economic development incentives for the construction of materials recycling facilities with the potential to increase (i) local citizen participation in the reduction of public litter and (ii) beneficial use, as defined in § 10.1-1414 of the Code of Virginia, as amended by this act, of glass, plastic, metal, and fiber. The evaluation shall also investigate the effect of the operation of mixed waste material recycling facilities on the quality and quantity of recyclable materials available for beneficial use. The Department shall invite stakeholders, including the Virginia Recycling Association, the Virginia Manufacturers Association, the Virginia Retail Federation, the Virginia Beverage Association, Keep Virginia Beautiful, the Virginia Petroleum, Convenience and Grocery Association, the Virginia Association of Counties, and the Virginia Municipal League, to participate in the evaluation.