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**HOUSE BILL NO. 1365**

Offered January 11, 2018

*A BILL to establish a statewide funding source to affected localities for flood resilience; Virginia Alternative Energy and Coastal Protection Act.*

Patron—Adams, D.M.

Referred to Committee on Rules

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 16 and Senate Joint Resolution 3 of the 2014 Session of the General Assembly 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 50 and Senate Joint Resolution 76 of the 2012 Session of the General Assembly 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 distributed solar energy in severe weather shelters and statewide energy efficiency programs; (iii) limit greenhouse gas emissions from the energy sector in Virginia; (iv) provide economic relief for Southwest Virginia; and (v) provide a reliable funding source for Agricultural Best Management Practices (BMPs) for farmers across the Commonwealth; and

Whereas, the State Air Pollution Control Board has promulgated draft regulations to reduce carbon emissions from the power sector in accordance with the provisions and requirements of Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia and the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia); 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:**

"Allowances" means an allowance up to one ton of carbon dioxide consistent with the Air Pollution Control Board's proposed regulations in accordance with the provisions and requirements of Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia and the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

"Board" means the State Air Pollution Control Board.

INTRODUCED

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59 "Commission" means the State Corporation Commission.  
60 "Department" means the Department of Environmental Quality.  
61 "DCR" means the Department of Conservation and Recreation.  
62 "Distributed Renewable Energy Program" means distributed renewable, non-carbon-emitting energy  
63 technologies not paid for by utility ratepayer funds.  
64 "DMME" means the Department of Mines, Minerals and Energy.  
65 "Energy efficiency program" has the same meaning as provided in § 56-576 of the Code of Virginia.  
66 "RGGI" means the Regional Greenhouse Gas Initiative program to implement the memorandum of  
67 understanding between signatory states dated December 20, 2005, as it may be amended, and the  
68 corresponding model rule that established a regional carbon dioxide electric power sector cap and trade  
69 program.  
70 "VRA" means the Virginia Resources Authority.  
71 B. The Board is authorized to conduct an auction of allowances. The Board may delegate operation  
72 of the auction to the Department. After the Board has approved final regulations to reduce carbon  
73 dioxide emissions from the power sector in accordance with the provisions and requirements of Chapter  
74 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia and the Administrative Process Act  
75 (§ 2.2-4000 et seq. of the Code of Virginia), the Board or Department shall amend the rules and  
76 regulations to specify and ensure that revenues associated with the sale of allowances are used  
77 exclusively for the purposes and amounts contained in this act.  
78 C. The Department shall deposit all proceeds from the sale of allowances to the Commonwealth  
79 Resilience Fund, as created by this act.  
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 auction proceeds received in accordance with this act as well as any funds appropriated by  
90 the General Assembly shall be paid into the state treasury and credited to the Fund.  
91 C. The Department shall develop programs for implementing the goals of the Fund where  
92 appropriate and shall accept funding proposals from counties, cities, towns, state agencies, businesses,  
93 and other entities for use of the Fund. The amount of individual proposals shall be determined by the  
94 Department in accordance with the total Fund disbursement guidelines as follows:  
95 1. In consultation with VRA, not less than 50 percent of the revenue shall be credited to the Virginia  
96 Shoreline Resiliency Fund established by Article 1.3 (§ 10.1-603.24 et seq.) of Chapter 6 of Title 10.1 of  
97 the Code of Virginia to assist counties, cities, and towns affected by recurrent flooding, sea-level rise,  
98 and flooding from severe weather events with adaptation and resilience efforts.  
99 2. In consultation with DMME, 25 percent of the revenue shall be credited to an energy efficiency  
100 and conservation programs account to provide energy efficiency and conservation grants and support  
101 the development and promotion of energy efficiency programs and conservation in the Commonwealth.  
102 Funding proposals for energy efficiency programs are subject to approval by DMME. Funding may be  
103 directed toward residential users, state or local governments, nonprofit nongovernment organizations,  
104 and industrial and commercial customers. Not less than 50 percent shall be directed toward low-income  
105 and moderate-income efficiency and conservation programs subaccounts for:  
106 a. The low-income residential sector at no cost to the participants of the programs, projects, or  
107 activities; and  
108 b. The moderate-income residential sector.  
109 3. Seven and one half percent of the revenue shall be deposited into the Virginia Natural Resources  
110 Commitment Fund, established under § 10.1-2128.1 of the Code of Virginia and administered by the  
111 Department of Conservation and Recreation, to provide additional funding for agricultural best  
112 management practices that improve water quality, create jobs, and sequester carbon emissions.  
113 4. Seven and one half percent of the revenue shall be directed to the Southwest Virginia Economic  
114 Development program of the Tobacco Region Revitalization Commission to provide economic  
115 development, education, and workforce training assistance for families and businesses in Southwest  
116 Virginia for the purpose of revitalizing communities negatively affected by the decline of fossil fuel  
117 production.  
118 5. In consultation with DMME, five percent of the revenue shall be credited to a renewable energy  
119 generation programs account to provide renewable energy grants and support the development and  
120 promotion of Distributed Renewable Energy Programs in the Commonwealth. Funding proposals for

121 *Distributed Renewable Energy Programs are subject to approval by DMME.*

122 *6. Not more than five percent of the Fund shall be used to cover reasonable costs of the Department,*  
123 *DMME, VRA, and DCR in the administration of this act. Any unused administrative revenue shall be*  
124 *credited as provided in subdivision 1.*

125 *D. Beginning in January 2021, the Department shall prepare an annual written report describing the*  
126 *Commonwealth's participation in RGGI, the revenues collected and expenditures made under RGGI by*  
127 *the Commonwealth, and any recommendations to amend state law relating to RGGI. The report shall be*  
128 *submitted to the General Assembly by January 1 each year.*

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