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## HOUSE BILL NO. 2391

Offered January 9, 2019

Prefiled January 8, 2019

A BILL to amend and reenact § 10.1-1402 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-1408.6 and by adding in Chapter 14 of Title 10.1 an article numbered 3.8, consisting of a section numbered 10.1-1425.40, relating to landfills; waste disposal fee; Greenhouse Gas Fund.

Patron—Lopez

Referred to Committee on Agriculture, Chesapeake and Natural Resources

**Be it enacted by the General Assembly of Virginia:**

1. That § 10.1-1402 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-1408.6 and by adding in Chapter 14 of Title 10.1 an article numbered 3.8, consisting of a section numbered 10.1-1425.40, as follows:

**§ 10.1-1402. Powers and duties of the Board.**

The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.
2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other state and federal agencies for the purpose of implementing this chapter and the federal acts.
3. Provide technical assistance and advice concerning all aspects of waste management.
4. Develop and keep current state waste management plans and provide technical assistance, advice and other aid for the development and implementation of local and regional waste management plans.
5. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.
6. Collect data necessary to conduct the state waste programs, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.
7. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal statute or regulation.
8. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste that it deems to be hazardous.
9. Consult and coordinate with the heads of appropriate state and federal agencies, independent regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.
10. Apply for federal funds and transmit such funds to appropriate persons.
11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.
12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the fee simple title to any lands, selected in the discretion of the Board as constituting necessary and appropriate sites to be used for the management of hazardous waste as defined in this chapter, including lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned property for a disposal site in accordance with the criteria for selection of a hazardous waste management site.
13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste management facilities.
14. Collect, from any person operating or using a hazardous waste management facility, fees sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary.

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59 All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the  
60 responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste  
61 management facilities.

62 15a. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage  
63 or disposal facility or any person transporting hazardous waste, permit fees sufficient to defray only  
64 costs related to the issuance of permits as required in this chapter in accordance with Board regulations,  
65 but such fees shall not exceed costs necessary to implement this subdivision. All fees received by the  
66 Board pursuant to this subdivision shall be used exclusively for the hazardous waste management  
67 program set forth herein.

68 15b. Collect fees from large quantity generators of hazardous wastes.

69 16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for  
70 the disposal, treatment or storage of nonhazardous solid waste: (i) permit application fees sufficient to  
71 defray only costs related to the issuance, reissuance, amendment or modification of permits as required  
72 in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to  
73 issue, reissue, amend or modify such permits and (ii) annual fees established pursuant to  
74 § 10.1-1402.1:1. All such fees received by the Board shall be used exclusively for the solid waste  
75 management program set forth herein. The Board shall establish a schedule of fees by regulation as  
76 provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.

77 17. Issue, deny, amend and revoke certification of site suitability for hazardous waste facilities in  
78 accordance with this chapter.

79 18. Make separate orders and regulations it deems necessary to meet any emergency to protect public  
80 health, natural resources and the environment from the release or imminent threat of release of waste.

81 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites where solid  
82 or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly  
83 managed and to institute legal proceedings to recover the costs of the containment or clean-up activities  
84 from the responsible parties.

85 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste  
86 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the  
87 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been  
88 improperly managed, including sites eligible for a joint federal and state remedial project under the  
89 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law  
90 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law  
91 99-499, and for investigations to identify parties responsible for such mismanagement.

92 21. Abate hazards and nuisances dangerous to public health, safety or the environment, both  
93 emergency and otherwise, created by the improper disposal, treatment, storage, transportation or  
94 management of substances within the jurisdiction of the Board.

95 22. Notwithstanding any other provision of law to the contrary, regulate the management of mixed  
96 radioactive waste.

97 23. ~~Expired.~~ Promulgate and enforce regulations necessary to carry out the provisions of  
98 §§ 10.1-1408.6 and 10.1-1425.40.

99 **§ 10.1-1408.6. Landfill methane fee.**

100 A. Any person owning or operating a permitted solid waste management facility shall collect from  
101 each person disposing of waste at such facility a fee of \$1 for every 500 pounds of waste or fraction  
102 thereof in excess of 500 pounds that is accepted by such owner or operator.

103 B. The person owning or operating such facility may retain 10 percent from the fee imposed in  
104 subsection A as an administrative expense and shall remit the remaining funds collected on a quarterly  
105 basis to the Department for deposition in the Greenhouse Gas Fund created pursuant to § 10.1-1425.40.

106 Article 3.8.

107 Greenhouse Gas Fund.

108 **§ 10.1-1425.40. Greenhouse Gas Fund.**

109 A. There is hereby created in the state treasury a special nonreverting fund to be known as the  
110 Greenhouse Gas Fund, referred to in this section as "the Fund." The Fund shall be established on the  
111 books of the Comptroller. All funds collected from the landfill methane fee pursuant to § 10.1-1408.6  
112 and any gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the  
113 state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the  
114 Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of  
115 each fiscal year shall not revert to the general fund but shall remain in the Fund.

116 B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants  
117 issued by the Comptroller upon written request signed by the Director after receiving and considering  
118 the recommendations of the Board.

119 C. Moneys in the Fund shall be expended according to the following allocation formula and for the  
120 following purposes:

121       1. Ninety-five percent for grants made to localities that meet the eligibility requirements established  
122       in the Department's regulations for the purpose of promoting the reduction of emissions of greenhouse  
123       gases in the Commonwealth, including emissions of methane and other gases from landfills, and  
124       supporting efforts to counter the effects of climate change; and  
125       2. Up to a maximum of five percent for the actual administrative expenditures incurred by the  
126       Department. The Director shall assign one person in the Department to serve as a contact for persons  
127       interested in the Fund.