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## SENATE BILL NO. 1666

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on January 24, 2019)

(Patron Prior to Substitute—Senator Lewis)

A BILL to amend and reenact §§ 10.1-603.24 and 10.1-603.25 of the Code of Virginia, relating to the Virginia Coastal Protection Fund; establishment of a carbon dioxide cap and trade program; authorization to establish an auction allowance program; deposit and distribution of proceeds of allowance auctions; Virginia Coastal Protection Act.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.24 and 10.1-603.25 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.24. Definitions.

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

"Authority" means the Virginia Resources Authority.

"Cost," as applied to any project financed under the provisions of this article, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project.

"Department" means the Virginia Department of Emergency Management.

"Fund" means the Virginia Shoreline Resiliency Coastal Protection Fund.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution of Virginia or laws of the Commonwealth.

§ 10.1-603.25. Virginia Coastal Protection Fund.

There shall be set apart a permanent and perpetual fund, to be known as the A. The Virginia Shoreline Resiliency Fund, ~~consisting~~ is continued as the Virginia Coastal Protection Fund (the Fund), which is established and set apart as a permanent and nonreverting fund. The Fund shall consist of not more than 77 percent of the revenue generated by the sale of carbon dioxide emissions allowances through any auction program administered by the Commonwealth, as determined by the Department of Environmental Quality with the approval of the Secretary of Natural Resources; such sums that may be appropriated to the Fund by the General Assembly; all receipts by the Fund from repayment of loans made by it to local governments; all income from the investment of moneys held in the Fund; and any other sums designated for deposit to the Fund from any source, public or private, including any federal grants and awards or other forms of assistance received by the Commonwealth that are eligible for deposit in the Fund under federal law. Any moneys remaining in the fund at the end of the biennium, including any appropriated funds and all principal, accrued interest, and payments, shall not revert to the general fund.

B. The Fund shall be administered by the Department of Conservation and Recreation as prescribed in this article. The Department of Conservation and Recreation, in consultation with the Secretary of Natural Resources and the Special Assistant to the Governor for Coastal Adaptation and Protection, shall establish guidelines regarding the distribution of loans and grants from the Fund and prioritization of such loans and grants. The Authority shall manage the Fund and shall establish interest rates and repayment terms of such loans as provided in this article. The Authority may disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund.

C. Localities shall use moneys from the Fund primarily for the purpose of ~~creating a low-interest loan program to help residents and businesses implementing hazard mitigation projects in areas~~ that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager. Moneys in the Fund may be used to mitigate future flood damage. No less than 10 percent of the moneys disbursed from the Fund each year shall be used for projects in 12 of the counties within the Northern Neck, Middle Peninsula, and Accomack-Norhampton planning districts as follows: Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland Counties.

D. Any locality is authorized to secure a loan made through such a low-interest loan program by placing a lien up to the value of the loan against any property that benefits from the loan. Such a lien shall be subordinate to each prior lien on such property, except prior liens for which the prior lienholder executes a written subordination agreement, in a form and substance acceptable to the prior lienholder in its sole and exclusive discretion, that is recorded in the land records where the property is located.

2. § 1. Definitions.

As used in this act:

60 *"Allowance" means an authorization to emit a fixed amount of carbon dioxide.*

61 *"Allowance auction" means an auction in which the Department or its agent offers allowances for*  
62 *sale.*

63 *"Authority" means the Virginia Resources Authority.*

64 *"Board" means the State Air Pollution Control Board.*

65 *"Department" means the Department of Environmental Quality.*

66 *"Director" means the Director of the Department of Environmental Quality.*

67 *"DMME" means the Department of Mines, Minerals and Energy.*

68 *"Energy efficiency program" has the same meaning as provided in § 56-576 of the Code of Virginia.*

69 *"Fund" means the Virginia Coastal Protection Fund created pursuant to § 10.1-603.25 of the Code*  
70 *of Virginia.*

71 *"Secretary" means the Secretary of Natural Resources.*

72 *§ 2. If as of the effective date of this act the Board has adopted regulations to reduce carbon dioxide*  
73 *emissions from electric generation facilities, the provisions of this section shall be incorporated into*  
74 *such regulations by the Department without further action by the Board.*

75 *The Director is hereby authorized to establish, implement, and manage an auction program to sell*  
76 *allowances into a market-based program to carry out the purposes of such regulations. To the extent*  
77 *permitted by Article X, Section 7 of the Constitution of Virginia, the Department shall (i) hold the*  
78 *proceeds recovered from the auction allowance in an interest-bearing account with all interest directed*  
79 *to the account to carry out the purposes of this act and (ii) use the proceeds without further*  
80 *appropriation for the following purposes only in a proportion to be determined by the Department with*  
81 *the approval of the Secretary:*

82 *1. Not more than 77 percent of the revenue shall be credited to the Fund for the purpose of assisting*  
83 *localities in implementing hazard mitigation projects in areas that are subject to recurrent flooding;*

84 *2. Not more than 10 percent of the revenue shall be credited to an account administered by DMME*  
85 *to support energy efficiency programs, of which amount at least 20 percent shall be directed to*  
86 *low-income energy efficiency programs. DMME shall review and approve all funding proposals for*  
87 *energy efficiency programs;*

88 *3. Not more than 10 percent of the revenue shall be credited to an account to provide economic*  
89 *development, education, and workforce training programs for families and businesses in Southwest*  
90 *Virginia for the purpose of revitalizing communities negatively affected by the decline of fossil fuel*  
91 *production, the guidelines of which shall be determined by DMME; and*

92 *4. Not more than three percent of the revenue shall be used to cover reasonable administrative*  
93 *expenses of the Department and DMME in the administration of this act.*

94 *§ 3. Beginning in 2020, the Department shall prepare an annual written report describing the*  
95 *Commonwealth's implementation of the regulations described in § 2 of this act, the revenues collected*  
96 *and deposited in the interest-bearing account described in clause (i) of § 2 of this act, and how such*  
97 *funds were expended during the fiscal year. The report shall be submitted to the General Assembly by*  
98 *December 31 each year.*

99 **3. That the incorporation of the provisions of § 2 of the second enactment of this act by the**  
100 **Department of Environmental Quality as required by § 2 of the second enactment of this act is**  
101 **exempt from the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the**  
102 **Code of Virginia). Such incorporation required by this act shall (i) be approved by the Director of**  
103 **the Department of Environmental Quality not later than July 31, 2019, and (ii) become effective**  
104 **upon approval by the Director and being filed with the Registrar of Regulations as provided in the**  
105 **Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia).**