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## HOUSE BILL NO. 1642

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources  
on February 5, 2020)

(Patron Prior to Substitute—Delegate Ayala)

A BILL to amend the Code of Virginia by adding in Article 2.1 of Chapter 14 of Title 10.1 a section numbered 10.1-1413.3, relating to coal ash ponds; well monitoring program; drinking water well testing.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2.1 of Chapter 14 of Title 10.1 a section numbered 10.1-1413.3 as follows:

§ 10.1-1413.3. *Drinking water well testing near coal ash ponds; well monitoring program.*

A. For the purposes of this section:

"Coal ash pond" means any natural topographic depression, man-made excavation, or diked area that (i) is designed to hold an accumulation of coal combustion residuals and liquids and (ii) treats, stores, or disposes of coal combustion residuals.

"Utility" means the owner or operator of a coal ash pond.

B. For each drinking water supply well within three miles of any coal ash pond, the utility shall commission a well water test on or before January 1, 2021, on behalf of the owner of the well. The test shall be conducted by a company certified to perform such tests by the Virginia Environmental Laboratory Accreditation Program. The utility shall recommend a certified laboratory to perform the test, but the owner of the well may elect to have an independent certified laboratory perform the test. Such test shall, at a minimum, test for alkalinity, aluminum, antimony, arsenic, barium, beryllium, bicarbonate, cadmium, calcium, carbonate, chloride, chromium (total), chromium (hexavalent), cobalt, copper, iron, lead, magnesium, manganese, mercury, molybdenum, nickel, pH, potassium, selenium, sodium, strontium, sulfate, thallium, total dissolved solids, turbidity, vanadium, and zinc. The utility shall pay the reasonable costs of such testing.

C. The utility shall commission a test as required by subsection B for each well (i) once per year during each of the five years following the approval by the Board or the Department of the closure by capping in place of a coal ash pond and (ii) once every five years thereafter.

D. If any sampling, test, or water quality analysis conducted pursuant to the provisions of this section indicates that water from a drinking water supply well exceeds groundwater quality standards for constituents associated with coal ash, the Board shall promptly instruct the utility to replace the contaminated drinking water supply well with (i) an alternate supply of potable drinking water, supplied within 24 hours of the instruction, and (ii) an alternate supply of water that is safe for other household uses, supplied within 30 days of the instruction. All costs associated with such alternate supplies of water shall be borne by the utility.

E. The Department shall consider the results of the tests conducted pursuant to the provisions of this section in any permitting, monitoring, or enforcement proceedings and may require the utility to commission additional testing.

F. Nothing in this section shall be construed to preclude or impair the right of any property owner to refuse the sampling or testing of any well on his property. The requirements of this section are in addition to other applicable laws or regulations, and nothing in this section, including the requirement to commission testing or to replace contaminated drinking water, shall preempt or preclude any additional legal action or remedy authorized by law.