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**SENATE BILL NO. 478**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact §§ 10.1-408, 10.1-410.2, and 10.1-411.1 of the Code of Virginia, relating to Clinch State Scenic River; Guest State Scenic River.*

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 Patron—Chafin

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 Referred to Committee on Agriculture, Conservation and Natural Resources

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

**1. That §§ 10.1-408, 10.1-410.2, and 10.1-411.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 10.1-408. Uses not affected by scenic river designation.**

A. Except as provided in § 10.1-407, all riparian land and water uses along or in the designated section of a river that are permitted by law shall not be restricted by this chapter.

B. Designation as a scenic river shall not be used:

1. To designate the lands along the river and its tributaries as unsuitable for mining pursuant to § 45.1-252 or regulations promulgated with respect to such section, or as unsuitable for use as a location for a surface mineral mine as defined in § 45.1-161.292:2; however, the Department shall still be permitted to exercise the powers granted under § 10.1-402; or

2. To be a criterion for purposes of imposing water quality standards under the federal Clean Water Act.

C. Nothing in this chapter shall preclude the federal government, the Commonwealth, or a locality or local governing body from using, constructing, reconstructing, replacing, repairing, operating, or performing necessary maintenance on any road or bridge.

D. Nothing in § 10.1-414 or 10.1-418.6 shall preclude the Commonwealth or a local governing body or authority from constructing, reconstructing, operating, or performing necessary maintenance on any transportation or public water supply project.

E. Nothing in this chapter shall preclude the continued:

1. Use, operation, and maintenance of the existing Loudoun County Sanitation Authority water impoundment or the installation of new water intake facilities in the existing reservoir located within the section of Goose Creek designated by § 10.1-411;

2. Operation and maintenance of existing dams in the section of the Rappahannock River designated by § 10.1-415; or

3. Operation, maintenance, alteration, expansion, or destruction of the Embrey Dam or its appurtenances by the City of Fredericksburg, including the old VEPCO canal and the existing City Reservoir behind the Embrey Dam, or any other part of the City's waterworks; or

4. Operation and maintenance of existing dams in the section of the Clinch River designated by § 10.1-410.2.

F. The City of Richmond shall be allowed to reconstruct, operate, and maintain existing facilities at the Byrd Park and Hollywood Hydroelectric Power Stations at current capacity. Nothing in this chapter shall be construed to prevent the Commonwealth, the City of Richmond, or any common carrier railroad from constructing or reconstructing floodwalls or public common carrier facilities that may traverse the section of the James River designated by § 10.1-412, such as road or railroad bridges, raw water intake structures, or water or sewer lines that would be constructed below water level.

G. The owner of the Harvell Dam in the City of Petersburg may construct, reconstruct, operate, and maintain the Harvell Dam subject to other law and regulation.

H. Nothing in this chapter shall preclude (i) the continued operation and maintenance of existing dams in the section of the Rappahannock River designated by § 10.1-415 or (ii) the Commonwealth, the City of Fredericksburg, or the County of Stafford, Spotsylvania, or Culpeper from constructing any new raw water intake structures or devices, including pipes and reservoirs but not dams, or laying water or sewer lines below water level.

I. Nothing in this chapter shall:

1. Preclude the construction, operation, repair, maintenance, or replacement of (i) a natural gas pipeline for which the State Corporation Commission has issued a certificate of public convenience and necessity or any connections with such pipeline owned by the Richmond Gas Utility and connected to such pipeline or (ii) the natural gas pipeline, case number PUE 860065, for which the State Corporation Commission has issued a certificate of public convenience and necessity; or

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59 2. Be construed to prevent the construction, use, operation, and maintenance of a natural gas pipeline  
60 (i) traversing the portion of the river designated by § 10.1-411.1 at, or at any point north of, the existing  
61 power line that is located approximately 200 feet north of the northern entrance to the Swede Tunnel or  
62 (ii) on or beneath the two existing railroad trestles, one located just south of the Swede Tunnel and the  
63 other located just north of the confluence of the Guest River with the Clinch River, or to prevent the  
64 use, operation, and maintenance of such railroad trestles in furtherance of the construction, operation,  
65 use, and maintenance of such pipeline.

66 **§ 10.1-410.2. Clinch State Scenic River.**

67 The Clinch River in Russell County from its confluence with the Little River to the Nash Ford  
68 Bridge at mile 279.5 Indian Creek near Cedar Bluff in Tazewell County to the Virginia-Tennessee state  
69 line in Scott County, a distance of approximately 20 110 miles and including its tributary, Big Cedar  
70 Creek from the confluence to mile 5.8 near Lebanon, is hereby designated as the Clinch State Scenic  
71 River, a component of the Virginia Scenic Rivers System.

72 **§ 10.1-411.1. Guest State Scenic River.**

73 The Clinch River from the Route 58 bridge in St. Paul to the junction with the Guest River, a  
74 distance of approximately 9.2 miles, and a segment of the Guest River in Wise County, from a point  
75 100 feet downstream from the Route 72 bridge to its confluence with the Clinch River, a distance of  
76 approximately 6.5 miles, are is hereby designated as the Clinch-Guest Guest State Scenic River, a  
77 component of the Virginia Scenic Rivers System.