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SENATE BILL NO. 674

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend the Code of Virginia by adding in Chapter 11 of Title 10.1 an article numbered 14, consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, relating to voluntary forest mitigation agreements.*

 Patron—Mason

 Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 11 of Title 10.1 an article numbered 14, consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, as follows:

*Article 14.**Voluntary Forest Mitigation.***§ 10.1-1181.13. Definitions.**

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

"Construction project" means any land-disturbing activity that involves construction of buildings or infrastructure, including roads, pipelines, or energy generation and transmission facilities.

"Forest mitigation" means addressing the adverse impacts to forests that may be caused by a construction project by avoiding and minimizing impacts to the extent practicable and then compensating for the remaining impacts through one or more offset projects.

"Offset project" means a project that permanently conserves and restores or improves the quality of forest land of the same or a similar type that is being adversely impacted by a construction project.

§ 10.1-1181.14. Applicability.

The provisions of this article shall not apply to any forest mitigation required by law or to any mitigation agreements entered into before July 1, 2020.

§ 10.1-1181.15. Mitigation agreements.

A. The Secretary of Natural Resources, the Secretary of Agriculture and Forestry, or any agency within those secretariats, or the Virginia Outdoors Foundation may enter into an agreement with the owner or operator of construction projects to accomplish forest mitigation. Any such agreement shall:

1. Document the extent to which the construction project has been designed to avoid and minimize adverse impacts to forests;

2. Ensure that offset projects for each construction project achieve at least no net loss of forest acreage and function;

3. Establish a process for selecting offset projects. The agreement shall not identify any specific offset project. Project selection criteria shall be science-based and made available to the public;

4. Provide for the payment of funds by the owner or operator to (i) a public body as that term is defined in § 10.1-1700, (ii) a holder as that term is defined § 10.1-1009, or (iii) a nonprofit organization that makes grants to public bodies and holders. The recipient of such funds may implement offset projects or re-grant funds on a competitive basis to public bodies and holders to implement offset projects. The fund recipient shall provide the public with regularly updated information on how funds are spent;

5. Ensure that habitat, functions, values, and other attributes of the forest offset project are similar in type and proportionate to the forest adversely impacted by the construction project;

6. Ensure that each offset project provides a new contribution to forest conservation or forest restoration that is above and beyond any current or planned government action, requirement, or project for which there is already designated public or private funding; and

7. Ensure that offset projects are located in reasonable proximity to the forest impacts that are caused by the construction project. Reasonable proximity shall be determined by the fund recipient and shall be based on appropriate ecological boundaries, with consideration given to communities adversely affected by the construction project.

B. No agreement entered into under this article shall include any waiver of liability for environmental damage caused by the construction project. No agreement entered into under this article shall guarantee regulatory approval for a construction project by any state agency.

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