Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** HB981

House of Origin	☐ Introduced	☐ Substitute	☒ Engrossed
Second House	☐ In Committee	☒ Substitute	☐ Enrolled

2. **Patron:** Herring

3. **Committee:** Finance and Appropriations

4. **Title:** Clean Energy and Community Flood Preparedness Act; fund.

5. **Summary:** Directs the Department of Environmental Quality to incorporate into regulations previously adopted by the State Air Pollution Control Board certain provisions establishing a carbon dioxide cap and trade program to reduce emissions released by electric generation facilities. Such provisions are required to comply with the Regional Greenhouse Gas Initiative (RGGI) model rule. The bill authorizes the Director of the Department of Environmental Quality to establish, implement, and manage an auction program to sell allowances into a market-based trading program. The bill requires revenues from the sale of carbon allowances, to the extent permitted by Article X, Section 7 of the Constitution of Virginia, to be deposited in an interest-bearing account and to be distributed without further appropriation (i) to the Virginia Community Flood Preparedness Fund, (ii) to the Department of Housing and Community Development for low-income energy efficiency programs, (iii) for administrative expenses, and (iii) for statewide climate change planning and mitigation activities. The bill continues the Virginia Shoreline Resiliency Fund as the Virginia Community Flood Preparedness Fund for the purpose of creating a low-interest loan program to help inland and coastal communities that are subject to recurrent flooding.

   The bill further requires that DEQ establish a reserve account to offer eligible entities with a preexisting contractual arrangement allowances at a reduced cost, and that any final regulation to implement the participation of the Commonwealth in a carbon trading program with an open auction of allowances is to define "life-of-the-unit contractual arrangement" as including certain energy conversion or tolling agreements. The proposed bill also provides that the cost of allowances purchased through a carbon-trading program may be recovered by a Phase I Utility or Phase II Utility.

6. **Budget Amendment Necessary**: No.

7. **Fiscal Impact Estimates:** Indeterminate. See item 8.

8. **Fiscal Implications:** This bill renames the Virginia Shoreline Resilience Fund the Virginia Community Flood Preparedness Fund, and moves responsibility for administering the Fund

from the Department of Emergency Management (VDEM) to the Department of Conservation and Recreation (DCR). Additionally, this bill requires that the Fund be on the books of the Commonwealth. Previously, the Fund was not required to be part of the state books. Further, the bill requires that 45 percent of any revenue generated from the sale of emissions allowances sold through a market-based trading program consistent with the Regional Greenhouse Gas Initiative (RGGI) program are to be deposited to the Fund. Moneys in the Fund are to be used to support localities in implementing flood prevention and protection projects in areas that are subject to recurrent flooding, mitigating future flood damage, and to assist communities that are subject to recurrent or repetitive flooding.

The remaining 55 percent of any revenue generated from the sale of emissions allowances is to be deposited into subsequent accounts to support programs that the bill requires the Department of Housing and Community Development (DHCD) to implement, and to fund the costs incurred by DHCD, the Department of Environmental Quality (DEQ), and the Department of Mines Minerals and Energy (DMME) while implementing those programs. For the purposes of this impact statement, accounts is interpreted to mean fund.

The proposed legislation states that, "To the extent permitted by Article X, Section 7 of the Constitution of Virginia, [DEQ] shall (…) (ii) use the proceeds without further appropriation…." State expenditures require an appropriation. The bill does not identify where the 55 percent of revenue generated from the sale of emissions allowances and utilized by DHCD, DEQ, and DMME is to be deposited. These agencies will need appropriations in order to expend the revenue.

It is anticipated that this bill will have a fiscal impact to the Office of the Secretary of Natural Resources, the Virginia Resources Authority (VRA), the DEQ, DCR, DMME, and DHCD. It is anticipated that the Office of the Secretary of Natural Resources can absorb any fiscal impact resulting from this bill. VRA currently manages the Fund and is able to recover reasonable costs and expenses incurred in this capacity, and this bill will allow VRA to continue to be reimbursed for reasonable costs and expenses incurred in its management.

The bill allows DHCD and DMME to use a portion of the revenue generated from the sale of allowances to support the administration and implementation of the low-income energy efficient programs required by this bill. The proposed legislation provides DEQ with sufficient resources to support its administrative expenses. Information on any potential impact of this bill to the State Corporation Commission (SCC) is not yet available.

DCR cannot determine the fiscal impact from this bill, as the revenue and scope of the program is unknown. Based on similar programs, DCR may require $116,000 for an additional grants manager to administer the program. DCR believes that it will be able to utilize moneys in the Fund to cover its expenses; however, this is not explicitly provided for in the bill. VDEM anticipates no fiscal impact from the proposed legislation.

DEQ anticipates that joining the RGGI program will generate proceeds that will vary in magnitude from year-to-year based on market fluctuations. Revenues for the coming six fiscal years are estimated to be between $104 million to $109 million, starting at the lower end of the range. The creation and maintenance of a reserve account as required in this bill will reduce the amount of available revenues in the first six years by an estimated $5.7 million in fiscal year 2021, with decreasing deductions until fiscal year 2025, in which the reserve allotment is estimated at $2.7 million. Revenues thereafter are not impacted by the long-term contract provisions in this bill.

The proposed bill directs DEQ to manage a program that is consistent with RGGI, as opposed to directly joining RGGI. The cost to duplicate a program similar to RGGI is indeterminate. The impact estimates provided in this statement are based on full participation in RGGI.

9. **Specific Agency or Political Subdivisions Affected:** DEQ; VRA; DCR; DMME; DHCD; SCC; Secretary of Natural Resources

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** None.