

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 99

An Act to amend and reenact §§ 10.1-1018.1 and 10.1-1021 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:1, relating to ConserveVirginia program; established.

[S 1290]

Approved March 12, 2021

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1018.1 and 10.1-1021 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:1 as follows:

§ 10.1-104.6:1. ConserveVirginia program established.

A. The Department shall develop a program for the creation, maintenance, operation, and regular updating of a data-driven Geographical Information Systems model to prioritize potential conservation areas across the Commonwealth that would provide quantifiable benefits to the citizens of Virginia. Such program shall be known as ConserveVirginia. The model shall synthesize multiple mapped data inputs, divided into categories, each representing a different overarching conservation value, including (i) agriculture and forestry, (ii) natural habitat and ecosystem diversity, (iii) floodplains and flooding resilience, (iv) cultural and historic preservation, (v) scenic preservation, (vi) protected landscapes resilience, and (vii) water quality improvement.

B. The Department shall consult regularly with the Chief Resilience Officer, the Special Assistant for Coastal Adaptation and Protection, the Department of Forestry, the Department of Agriculture and Consumer Services, the Department of Historic Resources, the Department of Wildlife Resources, the Department of Environmental Quality, the Marine Resources Commission, and any other state or federal agency or private organization deemed appropriate to provide data or information to update methodologies, map layers, and emerging conservation priorities.

C. The Department shall review and revise the methodology used to develop and prioritize each conservation value identified in subsection A. The Department shall conduct such review and revision process no less than once every two years, and such process shall include public hearings and solicitation of public comment. The Department shall continue to develop ways to incorporate and encourage environmental justice, as defined in § 2.2-234, into all existing and future conservation values. The Department shall not utilize any methodology or conservation value to limit a landowner's decision on implementing any aspect of an approved forest management plan or any appropriate best management practice to achieve water quality improvements.

D. The Department shall provide access to the ConserveVirginia model to the public and all state and federal agencies that benefit by using ConserveVirginia to determine conservation priorities.

E. The Department shall incorporate ConserveVirginia into acquisition or grant decisions when appropriate.

F. The Department shall utilize information provided by the Department of Agriculture and Consumer Services and the Department of Forestry when creating the Agriculture and Forestry map layers of ConserveVirginia. Such information shall include, as appropriate, new data sources that better reflect the economic viability of working farms and forests. The Department of Agriculture and Consumer Services and the Department of Forestry shall engage agriculture and forestry stakeholders to improve and refine the ConserveVirginia model to accurately reflect the conservation value of agricultural and forestal land in the Commonwealth. Such information shall inform whether the ConserveVirginia conservation values related to agriculture and forestry have been achieved.

§ 10.1-1018.1. Reporting.

The chairman of the Board shall submit to the Governor and the General Assembly, including the Chairmen of the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Finance, and the Senate Committee on Agriculture, Conservation and Natural Resources, and to the Director of the Department of Planning and Budget an executive summary and report of the interim activity and work of the Board on or before December 15 of each even-numbered year. The document shall report on the status of the Foundation and its Fund, including, but not limited to, (i) ~~implementation of its strategic plan;~~ (ii) land conservation targeting tools developed for the Foundation; ~~(iii)~~ (ii) descriptions of projects that received funding; ~~(iv)~~ (iii) a description of the geographic distribution of land protected as provided in § 10.1-1021.1; ~~(v)~~ (iv) expenditures from, interest earned by, and financial obligations of the Fund; and ~~(vi)~~ (v) progress made toward recognized state and regional land conservation goals, including what percentage of properties conserved were identified by ConserveVirginia, pursuant to § 10.1-104.6:1, and whether the identified

conservation values were protected. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 10.1-1021. Powers of the Foundation.

In order to carry out its purposes, the Foundation shall have the following powers and duties:

1. To prepare a comprehensive plan that recognizes and seeks to implement all of the purposes for which the Foundation is created. In preparing this plan, the Foundation shall:

a. ~~Develop a strategic plan for the expenditure of unrestricted moneys received by the Fund. In developing a strategic plan for expending unrestricted moneys from the Fund, the Board of Trustees shall establish~~ *Establish* criteria for the expenditure of such *unrestricted* moneys. ~~The plan shall take into account the purposes for which restricted funds have been expended or earmarked. Such criteria may include received by the Fund. In making grants for the expenditure of such unrestricted moneys, the Board of Trustees shall consider the following criteria, not all of which need to be met in order for a grant to be awarded:~~

- (1) The ecological, outdoor recreational, historic, agricultural, and forestal value of the property;
- (2) An assessment of market values;
- (3) Consistency with local comprehensive plans;
- (4) Geographical balance of properties and interests in properties to be purchased;
- (5) Availability of public and private matching funds to assist in the purchase;
- (6) Imminent danger of loss of natural, outdoor, recreational, or historic attributes of a significant portion of the land;
- (7) Economic value to the locality and region attributable to the purchase; ~~and~~
- (8) Advisory opinions from local governments, state agencies, or others; ~~and~~
- (9) *Whether the property has been identified by ConserveVirginia and whether the proposal seeks to preserve the conservation values identified by ConserveVirginia;*

b. Develop an inventory of those properties in which the Commonwealth holds a legal interest for the purpose set forth in subsection A of § 10.1-1020;

c. Develop a needs assessment for future expenditures from the Fund. In developing the needs assessment, the Board of Trustees shall consider among others the properties identified in the following: (i) *ConserveVirginia*, (ii) Virginia Outdoors Plan, ~~(ii)~~ (iii) Virginia Natural Heritage Plan, ~~(iii)~~ (iv) Virginia Institute of Marine Science Inventory, ~~(iv)~~ (v) Virginia Joint Venture Board of the North American Waterfowl Management Plan, and ~~(v)~~ (vi) Virginia Board of Historic Resources Inventory. In addition, the Board shall consider any information submitted by the Department of Agriculture and Consumer Services on farmland preservation priorities and any information submitted by the Department of Forestry on forest land initiatives and inventories; and

d. Maintain the inventory and needs assessment on an annual basis.

2. To expend directly or allocate the funds received by the Foundation to the appropriate state agencies for the purpose of acquiring those properties or property interests selected by the Board of Trustees. In the case of restricted funds the Board's powers shall be limited by the provisions of § 10.1-1022.

3. To enter into contracts and agreements, as approved by the Attorney General, to accomplish the purposes of the Foundation.

4. To receive and expend gifts, grants and donations from whatever source to further the purposes set forth in subsection B of § 10.1-1020.

5. To sell, exchange or otherwise dispose of or invest as it deems proper the moneys, securities, or other real or personal property or any interest therein given or bequeathed to it, unless such action is restricted by the terms of a gift or bequest. However, the provisions of § 10.1-1704 shall apply to any diversion from open-space use of any land given or bequeathed to the Foundation.

6. To conduct fund-raising events as deemed appropriate by the Board of Trustees.

7. To do any and all lawful acts necessary or appropriate to carry out the purposes for which the Foundation and Fund are established.