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SENATE BILL NO. 1100

Offered January 20, 1997

A BILL to amend the Code of Virginia by adding in Chapter 21 of Title 10.1 an article numbered 3, consisting of sections numbered 10.1-2117 through 10.1-2120, and by adding a section numbered 58.1-346.6, relating to tributary strategy nutrient reduction implementation.

Patrons—Norment, Barry, Bolling, Holland, Martin, Quayle, Schrock, Stosch, Waddell and Woods;
Delegates: Howell, Landes and Morgan

Referred to the 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 21 of Title 10.1 an article numbered 3, consisting of sections numbered 10.1-2117 through 10.1-2120, and by adding a section numbered 58.1-346.6 as follows:

Article 3.

Chesapeake Bay Tributary Restoration Trust Fund.

§ 10.1-2117. Chesapeake Bay Tributary Restoration Trust Fund established.

A. A special nonreverting fund known as the Chesapeake Bay Tributary Restoration Trust Fund is hereby established. The Chesapeake Bay Tributary Restoration Trust Fund, hereinafter referred to as the "Fund", shall be established on the books of the Comptroller and shall be administered by the Executive Director of the Chesapeake Bay Local Assistance Department. All sources of funds listed in subsection B shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used in conformance with this article to provide assistance to reduce the flow of excess nutrients into the Chesapeake Bay and its tributaries. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Chesapeake Bay Local Assistance Department.

B. Sources of revenues for the Fund shall be as follows:

1. Such appropriations to the Fund as may be provided by the General Assembly;
2. Federal grants that may be solicited and received for the specific purpose of this Fund set forth in subsection A;

3. Private donations and contributions; and

4. Revenue generated through the tax check-off created pursuant to § 58.1-346.6.

§ 10.1-2118. Use of the Fund; eligible projects.

A. Moneys from the Fund shall be used as cost sharing matching grants on a fifty/fifty basis to assist in the implementation of studies, technologies, plans and practices that will help to reduce the flow of nutrients known to damage the Chesapeake Bay and its tributaries. Moneys from the Fund shall be expended in geographical regions of the Commonwealth for which a Chesapeake Bay Tributary Nutrient Reduction Strategy has been approved by the General Assembly. A sewage treatment plant, regardless of location, shall be considered to be within a geographic region covered by an approved strategy if any portion of the plant's service area overlaps such geographic region and the plant discharges into a river basin draining to the Chesapeake Bay. Moneys from the Fund shall not be used directly or indirectly to supplant funding of existing programs but shall be used for supplementing existing programs and for new projects. Eligible projects include, but are not limited to, the following:

1. Conservation planning and design assistance to develop Nutrient Management Plans for agricultural operations;

2. Implementation of appropriate, cost-effective practices to reduce nutrient loads from nonpoint sources;

3. Implementation of appropriate, cost-effective technologies to reduce nutrient loads from point source discharges;

4. Reimbursement to local governments for tax credits or other kinds of authorized local tax relief that provide cost-effective incentives for implementation of nutrient reduction practices; and

5. Research and development projects, not to exceed ten percent of annual expenditures from the Fund, unless such projects can demonstrate the capacity to achieve sufficient cost-effective nutrient reduction to justify additional expenditures.

B. The Executive Director of the Chesapeake Bay Local Assistance Department is authorized to expend revenues from the Fund for preparing grant applications and for the advertisement and

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60 promotion of programs aimed at augmenting the sources of revenue referred to in subdivisions B2
61 through B4 of § 10.1-2117; except that the cumulative expenditures under this subsection may at no time
62 exceed two percent of the cumulative revenues of the Fund, measured from its inception.

63 § 10.1-2119. Advisory Committee established; membership; duties.

64 A. There is hereby established the Chesapeake Bay Tributary Restoration Fund Advisory Committee,
65 hereinafter referred to as the "Advisory Committee". The Advisory Committee shall advise the Secretary
66 of Natural Resources and the departments within the Secretariat of Natural Resources regarding the
67 expenditure of moneys received in the Fund. The Advisory Committee shall be composed of eight
68 members as follows: the Executive Director of the Chesapeake Bay Local Assistance Department; the
69 Directors of the Departments of Conservation and Recreation and Environmental Quality; the
70 Chairpersons of the Chesapeake Bay Local Assistance Board, the State Water Control Board and the
71 Soil and Water Conservation Board; and two elected local government officials to be appointed by the
72 Governor. The elected local government officials, who shall serve at the pleasure of the Governor, shall
73 be from jurisdictions within the geographical area in which expenditures from the Fund are authorized
74 by subsection A of § 10.1-2118 and one shall be from a jurisdiction in which point sources are the
75 predominant contributor of nutrients, and one shall be from a jurisdiction in which nonpoint sources are
76 the predominant contributor of nutrients. The Advisory Committee shall develop goals, criteria, and
77 guidelines for the effective use of the moneys in the Fund, giving particular emphasis to the
78 cost-effective reduction of nutrients that cause environmental damages, and report its recommendations
79 to the Secretary of Natural Resources. In addition, the Advisory Committee shall periodically evaluate
80 the results achieved through the grants awarded from the Fund.

81 B. In carrying out its responsibilities, the Advisory Committee shall seek advice from local elected
82 officials pursuant to the Local Government Partnership Initiative signed by the Chesapeake Executive
83 Council of the Chesapeake Bay Program.

84 C. By August 31 of each year, the Advisory Committee shall make recommendations for the use of
85 the Fund during the following fiscal year. In 1997, the recommendations for funding shall be made no
86 later than October 1.

87 D. By June 1 of each year, the Advisory Committee shall recommend a specific allocation of moneys
88 to be distributed between the Department of Environmental Quality (for point source reduction
89 applications) and the Chesapeake Bay Local Assistance Department (for nonpoint source pollution
90 reduction applications). In 1997, the recommendations for the allocation of moneys shall be made no
91 later than September 1.

92 § 10.1-2120. Priorities and criteria; financial assistance awards.

93 A. Each year the Chesapeake Bay Local Assistance Department, the Department of Conservation and
94 Recreation and the Department of Environmental Quality shall develop a set of priorities and criteria to
95 be used in soliciting applications and awarding financial assistance. The Chesapeake Bay Local
96 Assistance Department and the Department of Environmental Quality shall then solicit applications for
97 financial assistance, review the applications, award funding, track compliance, and report the results of
98 the program to the Chesapeake Bay Tributary Restoration Fund Advisory Committee. Grant recipients
99 shall provide annual notarized statements certifying measurable nutrient reduction results from the
100 previous year's grant.

101 B. In developing priorities and criteria for awarding financial assistance, the Chesapeake Bay Local
102 Assistance Department and the Departments of Environmental Quality and Conservation and Recreation
103 shall, in consultation with the Chesapeake Bay Tributary Restoration Fund Advisory Committee:

104 1. Evaluate specific technologies and practices proposed in General Assembly- approved Chesapeake
105 Bay Tributary Nutrient Reduction Strategies to determine which will produce the greatest reduction of
106 nutrients for the money and produce measurable results;

107 2. Consider the cost-per-pound of nutrients removed by individual projects, as well as the
108 environmental damage caused by different types of nutrients released in different locations;

109 3. Consider only prospective expenditures for nutrient reduction, except that initiatives already in
110 place or underway at the Stafford County and Blue Plains sewage treatment plants shall be eligible for
111 reimbursement;

112 4. Establish standards for reimbursements to local governments for tax relief provided as an
113 incentive for implementation of nutrient reduction practices, including inspections and other assurances
114 that the practices for which relief was extended continue to remain in effect;

115 5. Develop procedures for use in augmenting and supporting market-based nutrient trading; and

116 6. Establish environmental benchmarks and other indicators of progress in meeting the
117 Commonwealth's nutrient reduction goals.

118 § 58.1-346.6. Voluntary contributions to the Chesapeake Bay Tributary Restoration Trust Fund.

119 A. For all taxable years beginning on or after January 1, 1997, any individual, at the time of filing
120 a return, may make a voluntary contribution, not to be less than one dollar, to the Chesapeake Bay
121 Tributary Restoration Trust Fund (§ 10.1-2117 et seq.), hereafter referred to as the Fund, in accordance

with this section. Such contributions shall be used to help fund the restoration of the Chesapeake Bay and its tributaries in accordance with the purposes for which the Fund was created.

B. An individual may make a voluntary contribution to the Fund by designating any amount of tax refund if the individual is eligible to receive a tax refund pursuant to § 58.1-309.

C. An individual may make a voluntary contribution to the Fund by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution.

D. All moneys collected pursuant to this section shall be deposited into the state treasury.

E. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to the Fund. All moneys so deposited shall be used for the purposes for which the Fund was established.

2. That, in accordance with the second enactment of Chapter 1031 of the 1996 Acts of Assembly, the Shenandoah and Potomac River Basin Nutrient Reduction Strategy developed pursuant to Article 2 of Chapter 5.1 of Title 2.1 is hereby approved by the General Assembly.