

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 10.1-1186.1, relating to*
3 *supplemental environmental projects.*

4 [S 952]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 10.1-1186.1 as follows:**8 *§ 10.1-1186.1. Supplemental environmental projects.*9 *A. As used in this section, "supplemental environmental project" means an environmentally beneficial*
10 *project undertaken as partial settlement of a civil enforcement action and not otherwise required by law.*11 *B. The State Air Pollution Control Board, the State Water Control Board, the Virginia Waste*
12 *Management Board, or the Director acting on behalf of one of these boards or under his own authority*
13 *in issuing any administrative order, or any court of competent jurisdiction as provided for under this*
14 *Code, may, in its or his discretion and with the consent of the person subject to the order, provide for*
15 *such person to undertake one or more supplemental environmental projects. The project shall have a*
16 *reasonable geographic nexus to the violation or, if no such project is available, shall advance at least*
17 *one of the declared objectives of the environmental law or regulation that is the basis of the*
18 *enforcement action. Performance of such projects shall be enforceable in the same manner as any other*
19 *provision of the order.*20 *C. The following categories of projects may qualify as supplemental environmental projects, provided*
21 *the project otherwise meets the requirements of this section: public health, pollution prevention,*
22 *pollution reduction, environmental restoration and protection, environmental compliance promotion, and*
23 *emergency planning and preparedness. In determining the appropriateness and value of a supplemental*
24 *environmental project, the following factors shall be considered by the enforcement authority: net*
25 *project costs, benefits to the public or the environment, innovation, impact on minority or low income*
26 *populations, multimedia impact, and pollution prevention. The costs of those portions of a supplemental*
27 *environmental project that are funded by state or federal low-interest loans, contracts or grants shall be*
28 *deducted from the net project cost in evaluating the project. In each case which a supplemental*
29 *environmental project is included as part of a settlement, an explanation of the project with any*
30 *appropriate supporting documentation shall be included as part of the case file.*31 *D. Nothing in this section shall require the disclosure of documents exempt from disclosure pursuant*
32 *to the Virginia Freedom of Information Act (§ 2.1-340 et seq.).*33 *E. Any decision whether or not to agree to a supplemental environmental project is within the sole*
34 *discretion of the applicable board, official or court and shall not be subject to appeal.*35 *F. Nothing in this section shall be interpreted or applied in a manner inconsistent with applicable*
36 *federal law or any applicable requirement for the Commonwealth to obtain or maintain federal*
37 *delegation or approval of any regulatory program.*

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