

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 257

An Act to amend and reenact §§ 10.1-2117, 10.1-2128, 10.1-2131 and 10.1-2132 of the Code of Virginia, relating to educational institution eligibility for Water Quality Improvement Fund grants.

[H 2318]

Approved March 18, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2117, 10.1-2128, 10.1-2131 and 10.1-2132 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-2117. Definitions.

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

"Fund" means the Virginia Water Quality Improvement Fund established by Article 4 (§ 10.1-2128 et seq.) of this chapter.

"Individual" means any corporation, foundation, association or partnership or one or more natural persons.

"*Institutions of higher education*" means any educational institution meeting the requirements of § 60.2-220.

"Local government" means any county, city, town, municipal corporation, authority, district, commission or political subdivision of the Commonwealth.

"Nonpoint source pollution" means pollution of state waters washed from the land surface in a diffuse manner and not resulting from a discernible, defined or discrete conveyance.

"Point source pollution" means pollution of state waters resulting from any discernible, defined or discrete conveyances.

"State waters" means all waters on the surface or under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdictions.

"Water Quality Improvement Grants" means grants available from the Fund for projects of local governments, *institutions of higher education*, and individuals (i) to achieve nutrient reduction goals in tributary plans developed pursuant to Article 2 (§ 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1 or (ii) to achieve other water quality restoration, protection or enhancement benefits.

§ 10.1-2128. Virginia Water Quality Improvement Fund established; purposes.

A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which shall include, unless otherwise provided in the general appropriation act, ten percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and ten percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. The purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, *institutions of higher education* and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency.

§ 10.1-2131. Point source pollution funding; conditions for approval.

A. The Department of Environmental Quality shall be the lead state agency for determining the appropriateness of any grant related to point source pollution to be made from the Fund to restore, protect or improve state water quality.

B. The Director of the Department of Environmental Quality shall, subject to available funds and in coordination with the Director of the Department of Conservation and Recreation, direct the State Treasurer to make Water Quality Improvement Grants in accordance with the guidelines established

pursuant to § 10.1-2129.

C. Notwithstanding the priority provisions of § 10.1-2129, in no event shall the Director of the Department of Environmental Quality authorize the distribution of grants from the Fund for purposes other than financing at least fifty percent of the cost of design and installation of biological nutrient removal facilities or other nutrient removal technology at publicly owned treatment works until such time as all tributary plans required by Article 2 (§ 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1 are developed and implemented. The Director shall manage the allocation of grants from the Fund to ensure the full funding of executed grant agreements. In addition to the provisions of § 10.1-2130 all grant agreements related to nutrients shall include: (i) numerical concentrations on nutrient discharges to state waters designed to achieve the nutrient reduction goals of the applicable tributary plan; (ii) enforceable provisions related to the maintenance of the numerical concentrations that will allow for exceedences of no more than ten percent and for exceedences caused by extraordinary conditions; and (iii) recognition of the authority of the Commonwealth to make the Virginia Water Facilities Revolving Fund (§ 62.1-224 et seq.) available to local governments to fund their share of the cost of designing and installing biological nutrient removal facilities or other nutrient removal technology based on financial need and subject to availability of revolving loan funds, priority ranking and revolving loan distribution criteria. At least fifty percent of the cost of the design and installation of biological nutrient removal facilities or other nutrient removal technology at publicly owned treatment works meeting the nutrient reduction goal in an applicable tributary plan and incurred prior to the execution of a grant agreement is eligible for reimbursement from the Fund provided the grant is made pursuant to an executed agreement consistent with the provisions of this chapter.

Subsequent to the implementation of the tributary plans, the Director may authorize disbursements from the Fund for any water quality restoration, protection and improvements related to point source pollution that are clearly demonstrated as likely to achieve measurable and specific water quality improvements including but not limited to cost effective technologies to reduce nutrient loads. Notwithstanding the previous provisions of this subsection, the Director may, at any time, authorize grants, *including grants to institutions of higher education*, for technical assistance related to nutrient reduction.

§ 10.1-2132. Nonpoint source pollution funding; conditions for approval.

A. The Department of Conservation and Recreation shall be the lead state agency for determining the appropriateness of any grant related to nonpoint source pollution to be made from the Fund to restore, protect and improve the quality of state waters.

B. The Director of the Department of Conservation and Recreation shall, subject to available funds and in coordination with the Director of the Department of Environmental Quality, direct the State Treasurer to make Water Quality Improvement Grants in accordance with the guidelines established pursuant to § 10.1-2129. The Director shall manage the allocation of grants from the Fund to ensure the full funding of executed grant agreements.

C. Grant funding may be made available to local governments, soil and water conservation districts, *institutions of higher education* and individuals who propose specific initiatives that are clearly demonstrated as likely to achieve reductions in nonpoint source pollution, including excess nutrients, to improve the quality of state waters. Such projects may include, but are in no way limited to, the acquisition of conservation easements related to the protection of water quality and stream buffers; conservation planning and design assistance to develop nutrient management plans for agricultural operations; implementation of cost-effective nutrient reduction practices; and reimbursement to local governments for tax credits and other kinds of authorized local tax relief that provides incentives for water quality improvement. The Director shall give initial priority consideration to the distribution of grants from the Fund for the purposes of implementing the tributary plans required by Article 2 (§ 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1. Until such time as the tributary plans are developed and implemented, the Director shall distribute fifty percent of the nonpoint grant funding to their implementation and fifty percent to areas of the Commonwealth not to be covered by the tributary plans, unless otherwise provided in the general appropriation act.

2. That an emergency exists and this act is in force from its passage.