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HOUSE BILL NO. 2589

Offered January 21, 1999

A BILL to amend and reenact § 10.1-1801.1 of the Code of Virginia, relating to the Open-Space Lands Preservation Trust Fund.

Patron—Wilkins

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1801.1 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1801.1. Open-Space Lands Preservation Trust Fund.

A. The Foundation shall establish, administer, manage, including the creation of reserves, and make expenditures and allocations from a special nonreverting fund in the state treasury to be known as the Open-Space Lands Preservation Trust Fund, hereinafter referred to as the Fund. The Foundation shall establish and administer the Fund solely for the purpose of providing grants in accordance with this section to persons conveying conservation easements, as defined by § 10.1-1009, on agricultural, forestal, or other open-space land pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.) and, if applicable, the Virginia Conservation Easement Act (§ 10.1-1009 et seq.).

B. The Fund shall consist of general fund moneys, gifts, endowments or grants from the United States government, its agencies and instrumentalities, and funds from any other available sources, public or private.

C. Any moneys remaining in the Fund at the end of a biennium shall remain in the Fund, and shall not revert to the general fund. Interest earned on moneys received by the Fund shall remain in the Fund and be credited to it.

D. The purpose of grants made from the Fund shall be to aid persons conveying conservation easements with the costs associated with such a conveyance, which may include legal costs, appraisal costs or all or part of the value of the easement. *In cases where a grant is used to purchase all or part of the value of an easement, moneys from the Fund may also be used by the Foundation to pay for an appraisal, provided that the appraisal is the only appraisal paid for by the Foundation in the acquisition of a particular easement.* To be eligible for a grant award, the conservation easement shall provide that:

1. The easement is perpetual in duration;

2. The easement is conveyed to the Foundation and a local co-holder; and

3. If the local co-holder ceases to exist, the easement shall vest solely in the Foundation. If a local co-holder of an easement for which a grant has been awarded under this section ceases to exist, the Foundation shall within two years convey the interest in the easement that was held by the local co-holder to another qualified local co-holder. If no qualified local co-holder is willing to accept the easement, the Foundation shall diligently continue to seek a qualified local co-holder.

For the purposes of this section, "local co-holder" means the governing body of the locality in which the easement is located; a holder as defined in § 10.1-1009; a public recreational facilities authority; other local entity authorized by statute to hold open-space or preservation easements, or a soil and water conservation district, if authorized to hold an easement under the Open-Space Land Act (§ 10.1-1700 et seq.). *The Department of Historic Resources may be a local co-holder if the easement is on land that abuts land on which a designated historic landmark, building, structure, district, object or site is located.*

E. In awarding grants from the Fund, the Foundation shall consider the recommendations of the regional advisory boards established pursuant to § 10.1-1801.2. *In the event that the regional advisory board fails to make a recommendation within a reasonable amount of time as determined by the Foundation, the Foundation may act on a grant application.* The Foundation shall establish guidelines for submittal and evaluation of grant applications. In evaluating grant applications, the Foundation may give priority to applications that:

1. Request a grant to pay only legal and appraisal fees for a conservation easement that is being donated by the landowner;

2. Request a grant to pay costs associated with conveying a conservation easement on a family-owned or family-operated farm; or

3. Demonstrate the applicant's financial need for a grant.

F. No open-space land for which a grant has been awarded under this section shall be converted or diverted from open-space land use unless:

INTRODUCED

HB2589

- 60** 1. Such conversion or diversion is in compliance with subsection A of § 10.1-1704; and
- 61** 2. The easement on the land substituted for land subject to an easement with respect to which a grant
- 62** has been made under this section meets the eligibility requirements of this section.