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HOUSE BILL NO. 1313

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 5, 2020)

(Patron Prior to Substitute—Delegate Hodges)

A BILL to amend and reenact §§ 2.2-435.11, 10.1-658, and 10.1-659 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-222.4, relating to Chief Resilience Officer; flood control.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-435.11, 10.1-658, and 10.1-659 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-222.4 as follows:

§ 2.2-222.4. Chief Resilience Officer.

A. The Governor shall designate a Chief Resilience Officer. The Chief Resilience Officer shall serve as the primary coordinator of resilience and adaptation initiatives in Virginia and as the primary point of contact regarding issues related to resilience and recurrent flooding. The Chief Resilience Officer shall be equally responsible for all urban, suburban, and rural areas of the Commonwealth.

B. The Chief Resilience Officer, in consultation with the Special Assistant to the Governor for Coastal Adaptation and Protection, shall:

1. Identify and monitor those areas of the Commonwealth that are at greatest risk from recurrent flooding and increased future flooding and recommend actions that both the private and public sectors should consider in order to increase the resilience of such areas;

2. Upon the request of any locality in the Commonwealth in which is located a substantial flood defense or catchment area, including a levee, reservoir, dam, catch basin, or wetland or lake improved or constructed for the purpose of flood control, review and comment on plans for the construction or substantial reinforcement of such flood defense or catchment area; and

3. Initiate and assist with the pursuit of funding opportunities for resilience initiatives at both the state and local levels and help to oversee and coordinate funding initiatives of all agencies of the Commonwealth.

§ 2.2-435.11. Special Assistant to the Governor for Coastal Adaptation and Protection; duties.

A. The position of Special Assistant to the Governor for Coastal Adaptation and Protection (the Special Assistant) is created. The Special Assistant shall be the primary point of contact for the resources to address coastal adaptation and flooding mitigation. The Special Assistant shall be the lead in developing and in providing direction and ensuring accountability for a statewide coastal flooding adaptation strategy. He and shall initiate and assist with economic development opportunities associated with adaptation, development opportunities for the creation of business incubators, the advancement of the academic expertise at the Commonwealth Center for Recurrent Flooding Resiliency, coordination with the Virginia Growth and Opportunity Board, safeguarding strategic national assets threatened by coastal flooding, and pursuing federal, state, and local funding opportunities for adaptation initiatives.

B. In consultation with the Chief Resilience Officer designated pursuant to § 2.2-222.4, the Special Assistant shall:

1. Identify and monitor those areas of the Commonwealth that are at greatest risk from recurrent flooding and increased future flooding and recommend actions that both the private and public sectors should consider in order to increase the resilience of such areas;

2. Upon the request of any locality in the Commonwealth in which is located a substantial flood defense or catchment area, including a levee, reservoir, dam, catch basin, or wetland or lake improved or constructed for the purpose of flood control, review and comment on plans for the construction or substantial reinforcement of such flood defense or catchment area;

3. Initiate and assist with the pursuit of funding opportunities for resilience initiatives at both the state and local levels and assist in overseeing and coordinating funding initiatives of all agencies of the Commonwealth;

4. Employ, as needed, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and any other employees and agents necessary and fix their compensation to be payable from funds made available for that purpose;

5. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or donations of money, real property, or personal property for the benefit of the Commonwealth, and receive and accept from the Commonwealth or any other state, any locality, or any political subdivision of the Commonwealth, or any other source, aid or contributions of money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions are made;

6. Receive and accept from any source aid, grants, and contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter subject to the conditions upon which the aid, grants, or contributions are made;

7. Make grants for resilience measures to local governments, state and federal agencies, and private entities with any funds available for such purpose; and

8. Take any action necessary or convenient to the exercise of the powers granted or reasonably implied to the Special Assistant and not otherwise inconsistent with the laws of the Commonwealth.

§ 10.1-658. State interest in flood control.

A. The General Assembly declares that storm events and rising tidal waters cause recurrent flooding of Virginia's land resources and result in the loss of life, damage to property, unsafe and unsanitary conditions and the disruption of commerce and government services, placing at risk the health, safety and welfare of those citizens living in flood-prone areas of the Commonwealth. Flood waters disregard jurisdictional boundaries, and the public interest requires the management of flood-prone areas in a manner which prevents injuries to persons, damage to property and pollution of state waters.

B. The General Assembly, therefore, supports and encourages those measures which prevent, mitigate and alleviate the effects of stormwater surges and flooding, and declares that the expenditure of public funds and any obligations incurred in the development of flood control and other civil works projects, the benefits of which may accrue to any county, municipality or region in the Commonwealth, are necessary expenses of local and state government.

§ 10.1-659. Flood protection programs; coordination.

The provisions of this chapter shall be coordinated with the Virginia Coastal Resilience Master Plan and federal, state, and local flood prevention and water quality programs to minimize loss of life, property damage, and negative impacts on the environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection, dam safety, shoreline erosion and public beach preservation, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation which, including projects that result in hydrologic modification of rivers, streams, and flood plains; the nontidal wetlands, water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; the Virginia Coastal Zone Management Program at the Department of Environmental Quality; forested watershed management programs of the Department of Forestry; the agricultural stewardship, farmland preservation, and disaster assistance programs of the Department of Agriculture and Consumer Services; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of Game and Inland Fisheries; the mineral extraction regulatory program of the Department of Mines, Minerals and Energy; the flood plain restrictions of the Virginia Waste Management Board; and flooding-related research programs of the state universities; local government assistance programs of the Virginia Soil and Water Conservation Board; the Virginia Antiquities Act program of the Department of Historic Resources; and any other state agency programs deemed necessary by the Director, the Chief Resilience Officer of the Commonwealth, and the Special Assistant to the Governor for Coastal Adaptation and Protection. The Department shall also coordinate with soil and water conservation districts, Virginia Cooperative Extension agents, and planning district commissions, and shall coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land, and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The Director and either the Special Assistant to the Governor for Coastal Adaptation and Protection or the Chief Resilience Officer shall jointly hold meetings of representatives of these programs, entities, and localities in order to determine, coordinate, and prioritize the Commonwealth's efforts and expenditures to increase flooding resilience. Such meetings shall be held at least quarterly. The Department shall cooperate with other public and private agencies having flood plain management programs; and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.