

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: HB847

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Bloxom

3. Committee: Agriculture, Conservation and Natural Resources

4. Title: Virginia Resiliency Authority; established.

5. Summary: Establishes the Virginia Resiliency Authority (the Authority) as a body politic and corporate, a political subdivision of the Commonwealth. The Authority shall be governed by a Board of Directors (Board) consisting of 17 members as follows: (i) the Secretary of Natural and Historic Resources or his designee; (ii) the Secretary of Transportation or his designee; (iii) the Chair of the Senate Committee on Agriculture, Conservation and Natural Resources or his designee; (iv) the Chair of the House Committee on Agriculture, Chesapeake and Natural Resources or his designee; (v) one member of the Senate appointed by the Senate Committee on Rules; (vi) three members of the House of Delegates appointed by the Speaker of the House; (vii) six planning district officers, each selected from a different Planning District Commissions by the Governor; and (viii) three nonlegislative citizen members who reside in the Hampton Roads, Crater, Richmond Region, Middle Peninsula, Northern Neck, or Accomack-Northampton Planning Districts appointed by the Joint Rules Committee. Certain portions of the bill have a delayed effective date of July 1, 2023.

6. Budget Amendment Necessary: Yes; Item 375 of HB30/SB30, as Introduced, unless a new Item is to be created to establish the authority in the state budget. An Executive Amendment to HB30/SB30, as Introduced, includes \$2.5 million in each year from the general fund to establish the new Authority.

7. Fiscal Impact Estimates: Preliminary. See item 8.

8. Fiscal Implications: This fiscal impact estimate is preliminary and will be updated as additional information becomes available.

This bill establishes the Virginia Resiliency Authority (the Authority) as a political subdivision of the Commonwealth and the Commonwealth's primary state entity to develop, manage, and integrate coastal restoration and resilience. The Authority shall be governed by a Board of Directors, with the costs of compensation and expenses of the members to be provided by the Authority. The bill authorizes the Authority to hire employees and other such agents as may be necessary to effectuate the provisions of the bill. However, the third enactment clause of the bill provides that the Secretary of Natural and Historic Resources and the Secretary of Transportation in consultation with the Authority shall make further

recommendations regarding the organization of the Authority. Therefore, as written, the size and scope of the Authority and its staffing needs are unknown.

An Executive Amendment to HB30/SB30, as Introduced, includes \$2.5 million in each year from the general fund to establish the new Authority. The amendment is under the Department of Conservation and Recreation (DCR) in Item 375. It is unclear if the funding for the Authority is to be passed from DCR to the entity, serving as fiscal agent, as proposed § 2.2-2382 directs DCR to assist the Authority with the execution of the powers and duties laid out in § 10.1-602, (a technical amendment is suggested in Item 10, below), Code of Virginia. Future amendments may be required to establish the Authority as a separate state entity in the budget.

The bill removes DCR as the administrator of the Virginia Community Flood Preparedness Fund and shifts responsibility to the new Authority, but requires that DCR provide technical assistance and support to the Authority in administering the Fund. The Fund is a low-interest loan program to help inland and coastal communities that are subject to recurrent flooding. DCR administers the Fund, and the Virginia Resources Authority (VRA) manages the Fund in accordance with § 10.1-603.25, Code of Virginia, and a memorandum of agreement (MOA) between the two entities. The Code of Virginia and the MOA authorize both DCR and VRA to recover reasonable costs of administration from the Fund. Presently, DCR has seven positions and \$860,842 of nongeneral fund appropriation to support the administration of this Fund. Additionally, HB30/SB30, as Introduced, includes \$85.0 million in nongeneral fund appropriation and five additional positions to support this program. The Fund's source of funding is revenue generated from the Commonwealth's participation in the Regional Greenhouse Gas Initiative quarterly auctions.

As part of DCR's responsibilities in administering the Fund, these positions are charged with the development and implementation of Virginia's Coastal Resilience Master Plan, and for providing outreach and technical assistance to localities and other stakeholders regarding the grant opportunities provided by the Fund. As this bill shifts responsibility of administration to the new Authority but directs DCR to provide technical assistance and support to the Authority in administering the Fund, it is uncertain how these positions will be affected. If the positions are eliminated, DCR may incur Workforce Transition Act (WTA) and other severance costs for the eliminated, filled positions.

The Virginia Community Flood Preparedness Fund is required to be on the books of the State Comptroller. However, the new Authority is established as a political subdivision and may not have access to or have its expenditures recorded in the state's accounting system. A fiscal agent may be required to allow the Authority to administer the Fund. It is unclear whether DCR is to perform this function as part of its responsibilities in assisting the Authority, as provided for in the proposed § 2.2-2382.

Certain portions of the bill that have a delayed effective date of July 1, 2023, authorize the Authority to borrow money, and make and issue bonds. The bill states that no obligation of the Authority shall constitute, debt, or pledge of the faith and credit, of the Commonwealth, or any of its political subdivisions. According to the Department of the Treasury, the bonds

allowed to be issued by the Authority are not general obligation bonds of the Commonwealth or the Authority; rather, the bonds, if any, are to be revenue bonds secured by any funds or revenues pledged by the Authority. Treasury does not view this potential bonding authority as being a tax-supported obligation with an impact to debt capacity, but final determination would be made in consultation with bond counsel upon the review of any offering documents.

9. Specific Agency or Political Subdivisions Affected: Department of Conservation and Recreation; Secretary of Natural and Historic Resources; Secretary of Transportation; Virginia Resources Authority; Department of Treasury; House and Senate of Virginia.

10. Technical Amendment Necessary: Yes, on line 122, strike “§ 10.1-602” and insert “§ 10.1-603.25”.

11. Other Comments: None.