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SENATE BILL NO. 1122

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 31, 2023)

(Patron Prior to Substitute—Senator Hanger)

A *BILL to amend and reenact § 10.1-1801.1 of the Code of Virginia, relating to Open-Space Lands Preservation Trust Fund; use of funds; conservation easements to nonprofit land trust.*

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 localities acquiring fee simple title or other rights, interests, or privileges in property, to localities for persons conveying conservation easements to nonprofit land trusts, or to persons conveying to the Foundation fee simple title or other rights, interests, or privileges in property 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 (i) localities acquiring fee simple title or other rights, interests, or privileges in property ~~or~~; (ii) persons conveying to the Foundation fee simple title or other rights, interests, or privileges in property ~~with~~; or (iii) localities to provide funding for projects approved by the Foundation to persons conveying conservation easements to nonprofit land trusts so long as such easement has a local coholder. Such grants may be used for the costs associated with the conveyance of the property interest, which may include legal costs, appraisal costs, or all or part of the value of the property interest. In cases where a grant is used to purchase all or part of the value of a property interest, 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 property interest. To be eligible for a grant award, the property interest shall be (a) compliant with the Open-Space Land Act (§ 10.1-1700 et seq.) or (b) a conservation easement under the Virginia Conservation Easement Act (§ 10.1-1009 et seq.), so long as the holder of such easement is accredited by the Land Trust Accreditation Commission or its designated subsidiary entity at the time of the grant award. If the Land Trust Accreditation Commission accreditation is not available at the time of the grant application for such holder under clause (b), the Foundation shall evaluate such holder on a case-by-case basis consistent with its established guidelines. For the purposes of this subsection, "local coholder" means the governing body of the locality in which the easement is located, a public recreational facilities authority, any other local entity authorized by statute to hold open-space easements, or a soil and water conservation district, if authorized to hold an easement under the Open-Space Land Act.

E. 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 property interest that is being donated by the landowner;

2. Request a grant to pay costs associated with conveying a property interest 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:

1. Such conversion or diversion is in compliance with subsection A of § 10.1-1704; and

2. Any open-space easement on the land substituted for land subject to an easement with respect to which a grant has been made under this section meets the eligibility requirements of this section.

G. Up to \$100,000 per year of any interest generated by the Fund may be used for the Foundation's administrative expenses.