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SENATE BILL NO. 464

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 28.2-208.1, 28.2-1206, and 28.2-1208 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 28.2 a section numbered 28.2-208.3, relating to Fisheries Innovation for Sustainable Harvest Fund established.

Patron—Stuart

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-208.1, 28.2-1206, and 28.2-1208 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 28.2 a section numbered 28.2-208.3 as follows:

§ 28.2-208.1. Commercial Fishing Advisory Board established.

A. There is hereby established the Commercial Fishing Advisory Board; ~~which shall hereinafter be known as~~ (the Board). The Board shall advise the Commission on the expenditure of ~~those moneys received the Marine Fishing Improvement Fund established in § 28.2-208 and the Fisheries Innovation for Sustainable Harvest Fund established in § 28.2-208.3.~~

B. The Board shall consist of nine members appointed by the Commissioner from a list of nominees submitted by organizations representing commercial fishing interests. The membership shall be representative of the geographic area covered by the commercial fishing license.

C. The term of each member shall be for three years; ~~provided that initial appointments shall be three members appointed for three years, three members appointed for two years and three members appointed for one year.~~ Appointments to fill vacancies shall be made to fill the unexpired terms.

D. Members shall receive no compensation for their services but shall receive reimbursement for actual expenses. The Board shall meet at the call of the Commissioner or at least four times yearly ~~and shall formally review all funding applications prior to Commission review.~~

§ 28.2-208.3. Fisheries Innovation for Sustainable Harvest Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Fisheries Innovation for Sustainable Harvest Fund, referred to in this section as "the 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; fees, rents, and royalties collected pursuant to § 28.2-1206; and such other moneys as may be made available from any other source, public or private, including any federal grants solicited or received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys 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.

B. The Fund shall be administered by the Commission for the sole purpose of supporting and promoting the economic growth and development of Virginia's seafood economy while enhancing the sustainability of Virginia's marine fisheries resources through the awarding of grants, revolving loans, or other financial tools in the following areas:

1. Infrastructure development;
2. Technological advancements;
3. Market and value chain development;
4. Training and capacity building; and
5. Entrepreneurship and business support.

§ 28.2-1206. Fees; exemptions.

A. A ~~non-refundable~~ nonrefundable processing fee of \$100 shall accompany each application (i) submitted for a Commission permit for the use of state-owned submerged lands or (ii) submitted pursuant to § 28.2-1203. No such processing fee shall be required for an application to explore or recover underwater historic property or to conduct any activity authorized by a Virginia Marine Resources Commission General Permit.

B. The fee paid to the Commission for issuing each permit to recover underwater historic property shall be \$25.

The fee paid to the Commission for issuing each permit to use state-owned bottomlands shall be \$100; if the cost of the project is to exceed \$10,000 but not exceed \$500,000, the fee paid shall be \$300; and if the cost of the project is to exceed \$500,000, the fee paid shall be \$600. Riparian owners

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59 of (i) commercial facilities engaged in the business of ship construction or repair, (ii) commercial
60 facilities providing services relating to the shipping of domestic or foreign cargo, and (iii) commercial
61 facilities engaged in the business of selling or servicing watercraft shall be exempt from the payment of
62 rents and royalties, except as provided in subsection C.

63 C. When the activity or project for which a permit is requested will involve the removal of bottom
64 material, the application shall indicate this fact. If granted, the permit shall specify a royalty of not less
65 than \$0.40, nor more than \$0.80, per cubic yard of bottom material removed. In fixing the amount of
66 the royalty, the Commission shall consider, among other factors, the following:

67 1. The primary and secondary purposes for removing the bottom material;

68 2. Whether the material has any commercial value and whether it will be used for any commercial
69 purpose;

70 3. The use to be made of the removed material and any public benefit or adverse effect upon the
71 public that will result from the removal or disposal of the material;

72 4. The physical characteristics of the material to be removed; and

73 5. The expense of removing and disposing of the material.

74 D. Where it appears that the project or facility for which a permit application is made has been
75 completed or work thereon commenced at the time application is made, the Commission may impose
76 additional assessments not to exceed an amount of three times the normal permit fee and royalties,
77 unless such royalties are prohibited by this chapter.

78 E. Bottom material removed attendant to maintenance dredging or directional drilling shall be exempt
79 from any royalty. The Virginia Department of Transportation shall be exempt from all fees, rents, and
80 royalties otherwise assessable under this section. All counties, cities, and towns of the Commonwealth
81 shall pay the required permit fee but shall be exempt from all other fees, rents, and royalties assessable
82 under this section if the permit is issued prior to the commencement of any work to be accomplished
83 under the permit.

84 F. All fees, rents, and royalties collected pursuant to this chapter on and after July 1, 2000, shall be
85 paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. *All*
86 *royalties collected on or after July 1, 2024, as a result of the generation or transmission of electrical or*
87 *compressed air energy from offshore renewable sources, including wave or tidal action, currents,*
88 *offshore winds, or thermal or salinity gradients, shall be paid into the state treasury and credited to the*
89 *Fisheries Innovation for Sustainable Harvest Fund established in § 28.2-208.3.*

90 G. Beginning July 1, 2020, and not more frequently than every three years thereafter, the
91 Commission may increase or decrease fees for marine habitat applications, permits, leases, rents, and
92 royalties that are authorized by this chapter, but such increase or decrease shall be no greater than the
93 respective increase or decrease, expressed as a percentage, in the United States Average Consumer Price
94 Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the
95 U.S. Department of Labor, since the date on which the fee was last set or adjusted.

96 **§ 28.2-1208. Granting easements in, permitting the use of, or leasing the beds of certain waters.**

97 A. The Commission may, with the approval of the Attorney General and the Governor, grant
98 easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor
99 Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed
100 five years, except in the case of offshore renewable energy leases described in clause (ii), in which case
101 the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient
102 and proper. Such easements and leases may include the right to renew the same for an additional period
103 not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from
104 the bottoms covered thereby specified minerals and mineral substances or (ii) generate electrical energy
105 from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy
106 from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase
107 payment for any easement granted to a public service corporation, certificated telephone company,
108 interstate natural gas company or provider of cable television or other multichannel video programming
109 service shall be \$100 and shall be for a period of 40 years. However, no easement or lease shall in any
110 way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning
111 fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased
112 bottoms or the waters above.

113 B. All easements granted and leases made pursuant to this section shall be executed for, and in the
114 name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the
115 Governor.

116 C. All mineral royalties collected from such easements or leases on and after July 1, 2000, shall be
117 paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All
118 royalties collected as a result of the generation or transmission of electrical or compressed air energy
119 from offshore renewable sources, including wave or tidal action, currents, offshore winds, and thermal or
120 salinity gradients, shall be paid into the state treasury and appropriated to the ~~Virginia Coastal Energy~~

121 ~~Research Consortium Fisheries Innovation for Sustainable Harvest Fund~~ established pursuant to §
122 45.2-1714 28.2-208.3.

123 D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports
124 to the General Assembly on all easements and leases executed pursuant to this section during the
125 preceding 12 months.

126 E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the
127 Department of Energy and with the assistance of affected state agencies, departments and institutions,
128 including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and
129 Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in
130 § 2.2-1157 and the Virginia Energy Plan (§ 45.2-1710 et seq.). The State Subaqueous Minerals and
131 Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii)
132 public advertising for competitive bids or proposals for mineral and renewable energy leasing and
133 extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate
134 agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the
135 Governor as required by subsection A. The environmental impact reports shall address, but not be
136 limited to:

- 137 1. The environmental impact of the proposed activity;
- 138 2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
- 139 3. Measures proposed to minimize the impact of the proposed activity;
- 140 4. Any alternative to the proposed activity; and
- 141 5. Any irreversible environmental changes which would be involved in the proposed activity.

142 For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives
143 considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives,
144 it shall state why alternatives were not considered.

145 F. Neither the Commission nor the Department of Energy shall grant any lease, easement, or permit
146 allowing on the beds of any of the coastal waters of the Commonwealth any infrastructure for conveying
147 to shore oil or gas produced from an offshore oil or gas lease in the portion of the Atlantic Ocean
148 identified as the Outer Continental Shelf (OCS) Planning Area by the U.S. Bureau of Ocean Energy
149 Management. For purposes of this section, the term "infrastructure" includes pipelines, gathering
150 systems, processing facilities, and storage facilities. The provisions of this subsection shall not apply to
151 any infrastructure in existence as of July 1, 2020.