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SENATE BILL NO. 464

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 21, 2024)

(Patron Prior to Substitute—Senator Stuart)

A BILL to amend and reenact §§ 28.2-208.1 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.

Be it enacted by the General Assembly of Virginia:

1. That §§ 28.2-208.1 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 § 28.2-1208; 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.

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

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

60 way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning
61 fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased
62 bottoms or the waters above.

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

66 C. All mineral royalties collected from such easements or leases on and after July 1, 2000, shall be
67 paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All
68 royalties collected as a result of the generation or transmission of electrical or compressed air energy
69 from offshore renewable sources, including wave or tidal action, currents, offshore winds, and thermal or
70 salinity gradients, shall be paid into the state treasury and appropriated to the ~~Virginia Coastal Energy~~
71 ~~Research Consortium~~ *Fisheries Innovation for Sustainable Harvest Fund* established pursuant to §
72 ~~45.2-1714~~ 28.2-208.3.

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

76 E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the
77 Department of Energy and with the assistance of affected state agencies, departments and institutions,
78 including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and
79 Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in
80 § 2.2-1157 and the Virginia Energy Plan (§ 45.2-1710 et seq.). The State Subaqueous Minerals and
81 Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii)
82 public advertising for competitive bids or proposals for mineral and renewable energy leasing and
83 extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate
84 agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the
85 Governor as required by subsection A. The environmental impact reports shall address, but not be
86 limited to:

- 87 1. The environmental impact of the proposed activity;
- 88 2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
- 89 3. Measures proposed to minimize the impact of the proposed activity;
- 90 4. Any alternative to the proposed activity; and
- 91 5. Any irreversible environmental changes which would be involved in the proposed activity.

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

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