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HOUSE BILL NO. 1748**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee on Conservation and Natural Resources
on February 3, 1999)

(Patron Prior to Substitute—Delegate Deeds)

A *BILL to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 2.1, consisting of sections numbered 10.1-1413.2, 10.1-1413.3, and 10.1-1413.4, and by adding a section numbered 62.1-241.7:1, relating to solid waste.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 2.1, consisting of sections numbered 10.1-1413.2, 10.1-1413.3, and 10.1-1413.4, and by adding a section numbered 62.1-241.7:1 as follows:

Article 2.1.

Virginia Solid Waste Environmental Stewardship Fund.

§10.1-1413.2. Virginia Solid Waste Environmental Stewardship Fund.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Solid Waste Environmental Stewardship Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All fees collected pursuant to § 10.1-1413.3 shall be paid into the state treasury and credited to 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. Moneys in the Fund shall be used solely for the purposes found in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. This fund shall be exempt from indirect costs assessed by the Department of Accounts.

B. The Fund shall be used for the following purposes:

1. Under the supervision of the Director of the Department of Environmental Quality, to pay necessary costs of preventing, abating, removing and remediating releases or threatened releases of pollutants to the environment from solid waste landfills that have been determined by the Director to be causing harm to human health or the environment or creating an imminent and substantial risk of such harm and for which funds for prevention, abatement, removal or remediation of releases or threatened releases causing such harm or risk are insufficient or are unavailable from other sources. Expenditures may be made from the Fund under this subdivision only for prevention, abatement, removal and remediation of releases that occur or threaten to occur after the termination of the post-closure maintenance period established for the subject landfill, or after the Director has determined that the landfill has been abandoned by the owner in violation of this chapter.

2. For transfer, as provided in § 10.1-1413.3, to the Virginia Conservation and Recreation Fund established pursuant to Chapter 10.2 (§ 10.1-1017 et seq.) of this title, to be expended in accordance with the provisions contained therein.

3. For transfer, as provided in § 10.1-1413.3, to the Virginia Solid Waste or Recycling Revolving Fund (§ 62.1-241.2), for use by the Board according to § 62.1-241.7:1 to provide grants to local governments and to political subdivisions which exist to provide solid waste management services, subject to the provisions of subsection C of § 10.1-1413.4, for the proper final closure of landfills that are owned by the local governments or political subdivisions, or which are located in the locality and have been abandoned in violation of this chapter, and that are not equipped with liner and leachate control systems meeting the requirements of the Board's regulations, and as otherwise provided in § 62.1-241.7:1. The Department shall annually prioritize landfills in need of grants pursuant to this subdivision based on the greatest threat to human health and the environment.

§ 10.1-1413.3. Solid Waste Environmental Stewardship Fund; distribution.

A. Until January 1, 2009, moneys in the Fund shall be distributed as follows: fifty percent for subsection B2 of § 10.1-1413.2 and fifty percent for subsection B3 of § 10.1-1413.2.

After January 1, 2009, moneys in the fund shall be distributed as follows: twenty-five percent for subsection B2 of § 10.1-1413.2, twenty-five percent for subsection B3 of § 10.1-1413.2, and fifty percent for subsection B1 of § 10.1-1413.2.

B. Any moneys expended from the Fund for the purposes enumerated in subsection B1 of § 10.1-1413.2 and subsequently recovered by the Commonwealth pursuant to subsection F of § 10.1-1410 or by other means shall be deposited in the Fund for use pursuant to B1 of § 10.2-1413.2.

§ 10.1-1413.4. Fees.

A. In addition to the financial assurances required by this chapter for landfill closure and

60 post-closure care, the owner or operator of each landfill permitted under this chapter to dispose of
61 municipal solid waste shall remit to the State Treasurer, for deposit into the Virginia Solid Waste
62 Environmental Stewardship Fund, a fee, calculated pursuant to subsection B, for each ton of municipal
63 solid waste disposed of at the landfill. Payment shall be made within ten days of the end of each
64 quarter, with the first payment due by October 10, 1999. Remittance shall not be required under this
65 subsection or subsection B for wastes accepted from localities or political subdivisions which exist to
66 provide solid waste management services utilizing the procedures found in subsection C.

67 B. There shall be a base fee of \$1.00 per ton for every ton of municipal solid waste disposed of in a
68 landfill. In addition, amounts within the following volume slots shall be assessed:

- 69 1. 1,000 to 3,000 tons per day, \$0.50 per ton;
- 70 2. 3,001 to 5,000 tons per day, \$0.75 per ton; and
- 71 3. More than 5,000 tons per day, \$1.00 per ton.

72 C. Any Virginia local government, and any political subdivision which exists to provide solid waste
73 management services, contracting for disposal in Virginia of municipal solid waste generated within its
74 borders or disposing of such waste in a publicly or privately owned landfill shall be exempt from any
75 fees charged for the purposes of subsections A or B, provided that the locality or political subdivision
76 (i) advises the Director in advance of the beginning of the quarter for which a fee would otherwise be
77 required; (ii) dedicates an amount, equivalent to the amount that would otherwise be assessed, to the
78 purposes of the Virginia Solid Waste Environmental Stewardship Fund found in subsection B of
79 § 10.1-1413.2 or to aid in meeting mandated recycling requirements imposed pursuant to § 10.1-1411;
80 and (iii) notifies the owner or operator of the landfill accepting its municipal solid waste that no
81 remittance to the State Treasurer pursuant to this section is required for its waste.

82 D. The Department of Environmental Quality shall notify the owner or operator of every landfill
83 permitted to dispose of municipal solid waste of the requirements of this section not later than
84 September 30, 1999.

85 § 62.1-241.7:1. Grants to localities for landfill closure.

86 Subject to the provisions of subsection C of § 10.1-1413, funds transferred to the Fund from the
87 Virginia Solid Waste Environmental Stewardship Trust Fund pursuant to § 10.1-1413.2 shall be used by
88 the Board to provide grants to local governments and to political subdivisions which exist to provide
89 solid waste management services for the proper final closure of landfills that are owned by the local
90 governments or political subdivisions, or that are located in the locality and have been abandoned in
91 violation of this chapter, and that are not equipped with liner and leachate control systems meeting the
92 requirements of the Board's regulations. However, the Board may, if it finds that there exist sufficient
93 funds to maintain significant and continuing progress in fulfilling the purposes of paragraph B 3 of
94 § 10.1-1413.2, utilize up to ten percent of moneys that would otherwise go to such purposes to provide
95 grants to localities and to political subdivisions which exist to provide solid waste management services
96 to enhance recycling activities and recycling infrastructure, waste reduction efforts, litter control and
97 anti-litter education efforts and for use by the locality or political subdivision to assist the private sector
98 in providing these types of activities. The Board may establish such terms and conditions on any grant
99 as it deems appropriate. Grants shall be disbursed from the Fund by the Authority in accordance with
100 the written direction of the Board.