

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 1 of Title 28.2 sections numbered 28.2-108.1 and 28.2-108.2 and to repeal §§ 62.1-132.3:3 and 62.1-132.3:4 of the Code of Virginia, relating to Marine Resources Commission; Virginia Waterway Maintenance Grant Program and Fund.

[H 1834]

Approved

Be it enacted by the General Assembly of Virginia:
1. That the Code of Virginia is amended by adding in Article 2 of Chapter 1 of Title 28.2 sections numbered 28.2-108.1 and 28.2-108.2 as follows:

§ 28.2-108.1. Virginia Waterway Maintenance Fund continued.

From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby continued in the state treasury a special nonreverting, permanent fund to be known as the Virginia Waterway Maintenance Fund (the Fund), to be administered by the Commission. The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner. Moneys in the Fund shall be used solely for the purpose of awarding grants to applicants to the Virginia Waterway Maintenance Grant Program pursuant to § 28.2-108.2.

§ 28.2-108.2. Virginia Waterway Maintenance Grant Program.

A. Once each fiscal year, the Commission shall award a grant of funds to a qualified applicant or applicants to support a dredging project or projects that have been approved by the Commission. The source of the grant funds shall be the Virginia Waterway Maintenance Fund continued pursuant to § 28.2-108.1. Applicants shall be limited to political subdivisions and the governing bodies of Virginia localities.

B. The Commission shall develop guidelines establishing an application process, procedures for evaluating the feasibility of a proposed dredging project, and procedures for awarding grants. The guidelines and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.). The guidelines and procedures shall provide that:

1. The Commission shall evaluate each application to determine its completeness, the sufficiency of its justification for the proposed project, the status of any necessary permits, the adequacy of its project management organization, and the potential beneficial use of dredged materials for the purpose of mitigation of coastal erosion, flooding, or other purposes for the common good.

2. The Commission shall not require any level of matching contributions from the applicant.

3. No award of a grant shall support any dredging project for a solely privately owned marina or dock. However, the Commission may award a grant to a political subdivision or governing body for the dredging of a waterway channel with a bottom that is privately owned if such political subdivision or governing body holds a lease of such bottom with a term of 25 years or more.

4. Prior to receipt of a grant, the applicant shall enter into a memorandum of understanding with the Commission establishing the requirements for the use of the grant funds.

C. Projects for which the Commission may award grant funding include (i) feasibility and cost evaluations, pre-project engineering studies, and project permitting and contracting costs for a waterway project conducted by the Commonwealth; (ii) the state portion of a nonfederal sponsor funding requirement for a federal project, which may include the beneficial use of dredged materials that are not covered by federal funding; (iii) the Commonwealth's maintenance of shallow-draft navigable waterway channel maintenance dredging and the construction and management of areas for the placement of dredged material; and (iv) the beneficial use, for environmental restoration and the mitigation of coastal erosion or flooding, of dredged materials from waterway projects conducted by the Commonwealth.

2. That §§ 62.1-132.3:3 and 62.1-132.3:4 of the Code of Virginia are repealed.

3. That the Marine Resources Commission (the Commission) shall utilize the existing Municipal Dredging Operating Program and Municipal Dredging Operating Agreement adopted by the Virginia Port Authority for the administration of the Municipal Dredge Pilot Program operated by the Middle Peninsula Chesapeake Bay Public Access Authority. The Commission shall also utilize the Fast-Track Permitting Program for Disposal of Dredged Material pursuant to 4VAC20-1340-40 of the Virginia Administrative Code when applicable for dredged material disposal in its implementation of the Virginia Waterway Maintenance Grant Program pursuant to § 28.2-108.2 of the Code of Virginia, as created by this act.

ENROLLED

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