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# VIRGINIA STATE BUDGET

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2021 Special Session I

## Budget Bill - HB1800 (Chapter 552)

Bill Order » Office of Natural Resources » Item 377

Department of Environmental Quality

| Item 377  | First Year - FY2021                        | Second Year - FY2022                       |
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| <b>Water Protection (51200)</b>                     | <b>\$47,728,146</b><br><b>\$44,585,173</b> | <b>\$52,894,920</b><br><b>\$54,521,149</b> |
| Water Protection Permitting (51225)                 | \$8,954,437                                | \$11,054,476<br>\$11,584,142               |
| Water Protection Compliance and Enforcement (51226) | <del>\$8,247,453</del><br>\$7,554,363      | <del>\$8,599,703</del><br>\$8,891,303      |
| Water Protection Outreach (51227)                   | <del>\$2,938,270</del><br>\$2,039,937      | <del>\$2,938,270</del><br>\$2,476,437      |
| Water Protection Planning and Policy (51228)        | \$8,451,889                                | <del>\$8,569,623</del><br>\$8,435,790      |
| Water Protection Monitoring and Assessment (51229)  | <del>\$11,525,815</del><br>\$9,974,265     | <del>\$14,122,566</del><br>\$15,523,195    |
| Water Protection Stormwater Management (51230)      | \$7,610,282                                | \$7,610,282                                |
| Fund Sources:                                       |  |  |
| General   | <del>\$25,228,739</del><br>\$22,085,766    | <del>\$30,395,513</del><br>\$32,021,742    |
| Special   | \$1,919,279                                | \$1,919,279                                |
| Trust and Agency                                    | \$25,500                                   | \$25,500                                   |
| Dedicated Special Revenue                           | \$12,084,183                               | \$12,084,183                               |
| Federal Trust                                       | \$8,470,445                                | \$8,470,445                                |

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Authority: Title 10.1, Chapter 11.1; and Title 62.1, Chapters 2, 3.1, 3.2, 3.6, 5, 6, 20, 22, 24, and 25, Code of Virginia.

A. Out of this appropriation, \$51,500 the first year and \$51,500 the second year from the general fund is designated for annual membership dues for the Ohio River Valley Water Sanitation Commission.

B.1. The permit fee regulations adopted by the State Water Control Board pursuant to paragraphs B.1. and B.2. of § [62.1-44.15:6](#), Code of Virginia, shall be set at an amount representing not more than 50 percent of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System permits and Virginia Pollution Abatement permits.

2. The regulations adopted by the State Water Control Board to initially implement the provisions of this Item shall be exempt from Article 2 (§ [2.2-4006](#), et seq.) of Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2010. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Article 2 (§ [2.2-4006](#), et seq.) of Chapter 40 of Title 2.2, Code of Virginia.

C. Out of the appropriation for this item, \$151,500 the first year and \$151,500 the second year from the general fund is designated for the annual membership dues for the Interstate Commission on the Potomac River Basin.

D.1. Notwithstanding § 62.1-44.15:56, Code of Virginia, public institutions of higher education, including community colleges, colleges, and universities, shall be subject to project review and compliance for state erosion and sediment control requirements by the local program authority of the locality within which the land disturbing activity is located, unless such institution submits annual specifications to the Department of Environmental Quality, in accordance with § 62.1-44.15:56 A (i), Code of Virginia.

2. The State Water Control Board is authorized to amend the Erosion and Sediment Control Regulations (9 VAC 25-840 et seq.) to conform such regulations with this project review requirement and to clarify the process. These amendments shall be exempt from Article 2 (§2.2-4006 et seq.) of the Administrative Process Act.

E. Beginning October 1, 2015, there shall be a \$3.75 fee imposed on each dry ton of exceptional quality biosolids cake sewage sludge that is land applied pursuant to § 62.1-44.19:3P, Code of Virginia, until such fee is altered, amended or rescinded by the State Water Control Board.

F.1. The Department shall work in conjunction with the Virginia Economic Development Partnership to facilitate the development of long-term offsetting methods within the Virginia Nutrient Credit Exchange as set out in Item 130 of this act.

2. The Department shall work with permittees operating under the Chesapeake Bay Watershed Nutrient General Permit and interested stakeholders through a workgroup including local government representatives, the Chesapeake Bay Foundation and the James River Association to review the assumptions used in estimating the effluent nutrient concentrations and trends of wastewater facilities and to identify cost-effective options to achieve wastewater nutrient load levels with reasonable assurance consistent with the needs of the Chesapeake Bay TMDL Phase III Watershed Implementation Plan. The review shall be completed and provided to the Chairs of the House Appropriations Committee, the Senate Finance and Appropriations Committee, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2020. The Department shall continue issuing Water Quality Improvement Fund grants for additional nutrient removal projects in accordance with the appropriations under Items 379 and C-70 of this act and §§ 10.1-1186.01 and 10.1-2117 of the Code of Virginia.

G. Notwithstanding any other provision of law, any Virginia Stormwater Management Program authority is authorized to charge a voluntary fee of \$30,000 for review of sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres for an expedited stormwater management program plan review. Any individual or firm electing to pay the voluntary fee shall be guaranteed the total government review time shall not exceed 45 days excluding any applicant's time in responding to questions. Any amounts paid to DEQ above the \$9,600 fee shall be used by DEQ to increase the staffing level of the reviewers of these applications.

H. Out of the amounts in this Item, ~~\$2,730,601 the first year and \$2,730,601~~ \$2,736,330 the second year from the general fund is included for the purchase of laboratory and field equipment through the Commonwealth's Master Equipment Leasing Program.

I. The Department shall assess current provisions of the Virginia Erosion and Sediment Control Act, Storm Water Management Act, and the Chesapeake Bay Preservation Act and identify any areas of inconsistency, conflict, and duplication within and among the existing administrative regulations across the three regulatory programs and analyze the impact on locally administered programs for MS4 permit localities under the Virginia Stormwater Management Act. A final report of the assessment, and all associated recommendations for increasing the efficiency and improving the integration of the current regulatory framework, shall be submitted to the Governor

and the General Assembly no later than April 1, 2021.

J. Out of the amounts appropriated for this item, \$231,000 the first year and \$231,000 the second year is provided for regional water resource planning activities.

K. The Department shall assess alternative reimbursement models and reimbursement amounts for nutrient removal grants provided to projects serving a locality or localities with: (i) high fiscal stress as defined by the Composite Fiscal Stress Index; (ii) median household incomes below the Commonwealth's average; and (iii) the capacity of ratepayers to absorb the additional costs of financing nutrient removal projects. The Department shall provide a report detailing its findings and recommendations to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees no later than December 15, 2020.

~~L. The Department shall convene a workgroup of affected stakeholders, including representatives from the regulated industry, local governments and members of the public, to produce recommendations for the Governor and General Assembly to improve the long-term sustainability of the Virginia Stormwater Management Fund established by § 62.1-44.15:29 and Department oversight of nutrient credit use in the Commonwealth. Such recommendations shall be provided to the Governor and General Assembly by November 1, 2020.~~

~~2. The provisions of 9VAC25-900, Virginia Administrative Code, shall be considered to have satisfied the conditions of § 62.1-44.15:35, Code of Virginia, for the establishment of an application fee schedule in accordance with § 62.1-44.19:20, Code of Virginia.~~

*L.1. Out of the amounts appropriated for this item, \$1,100,000 the second year from the general fund is to be deposited in the Virginia Stormwater Management Fund.*

*2. Notwithstanding § 62.1-44.15:28, as it is currently effective and as it shall become effective, Code of Virginia, the permit fee regulations adopted by the State Water Control Board pursuant to § 62.1-44.15:28, as it is currently effective and as it shall become effective, Code of Virginia, for the Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities and municipal separate storm sewer system permits shall be set at an amount representing no less than 60 percent, not to exceed 62 percent, of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities and municipal separate storm sewer system permits. To the extent practicable, the Board shall solicit input from affected stakeholders when establishing the new fee structure.*

*3. Notwithstanding § 62.1-44.19:20, Code of Virginia, the application fee schedule adopted by the State Water Control Board pursuant to § 62.1-44.19:20, Code of Virginia, shall be set at an amount representing no less than 60 percent, not to exceed 62 percent, of the direct costs for the administration, compliance and enforcement of the nutrient credit certification program. To the extent practicable, the Board shall solicit input from affected stakeholders when establishing the new fee structure.*

*M. Out of the amounts appropriated for this item, \$175,000 the second year from the general fund is provided for a research project to field test the effectiveness of using halophytes growing in biochar-amended soil to capture and remove salt from highway and parking lot stormwater runoff.*

*N. The Director of the Department of Environmental Quality shall convene a working group for the purpose of developing an annual or project-based fee schedule for the review of erosion and sediment control plans related to solar energy project applications. The working group shall include representatives of (i) private sector companies that own or operate solar energy facilities, (ii) local governments that permit solar facilities, and (iii) other stakeholders determined by the Department to be necessary to the development of the fee schedule.*

*O. The Department of Environmental Quality, in consultation with the Department of Agriculture and Consumer Services and the Department of Forestry, shall establish a workgroup to review the practice of retiring agricultural land for the*

*generation of nutrient credits and determine its impact on agricultural sustainability, farmland retention, farmland preservation, and functions of the nutrient credit exchange in the Virginia portion of the Chesapeake Bay watershed and its subwatersheds. If it is determined that there is impact on farmland retention/availability, the report should include recommendations regarding how the nutrient credit trading regulations and/or underlying statutory authority should be changed to help reduce the loss of prime farmland. If the land for nutrient credits is converted to forestland, the workgroup should identify what protections are in the nutrient credit trading regulations to ensure the forestland is managed under a forestry management plan and/or noxious weed or invasive species are controlled. The review shall be completed and provided to the Chairs of the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Committee on Agriculture, Conservation, and Natural Resources and the Virginia delegation of the Chesapeake Bay Commission by December 1, 2021. The workgroup shall include representatives of the Virginia Agribusiness Council, Virginia Farm Bureau, the Chesapeake Bay Commission, Virginia Cooperative Extension, the Virginia Department of Transportation, Home Builders Association of Virginia, Virginia Association for Commercial Real Estate, representatives from local Soil and Water Conservation Districts, representatives of local governments, local economic development officials, and other stakeholders deemed appropriate by the Department.*

*P. The Department of Environmental Quality shall convene a workgroup, in conjunction with the Department of Health and the Department of Agriculture and Consumer Services, to conduct research and complete a single collaborative report that provides findings and recommendations related to: (i) the location, frequency, and severity of harmful algae blooms in Virginia waters; (ii) the factors that lead to the formation and occurrence of harmful algae blooms; and, (iii) plans and strategies for state agencies to lead or support appropriate mitigation efforts. The workgroup shall provide its findings to the Chairs of the House Agriculture, Chesapeake and Natural Resources Committee and Senate Agriculture, Conservation and Natural Resources Committee no later than September 1, 2021.*