

Department of Planning and Budget 2003 Fiscal Impact Statement

1. Bill Number SB1088

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron Bolling

3. Committee Agriculture, Chesapeake and Natural Resources

4. Title Land application of sewage sludge; requirements and regulations

5. Summary/Purpose:

This bill pertains to the requirements, regulations, study and report on land application of sewage sludge. The bill amends current biosolids land application law by establishing standard complaint and investigation procedures, including the maintenance of a searchable electronic database of complaints by the Virginia Department of Health (VDH). The bill requires nutrient management plans (NMPs) prepared by persons certified by the Virginia Department of Conservation and Recreation (DCR) for all land application sites, regardless of the frequency of application. Under current VDH regulations, only sites where biosolids are applied more than once every 3 years are required to prepare NMPs prior to permit issuance. The bill also requires DCR approval of all NMPs for sites where biosolids are land applied more than once every 3 years at agronomic rates. The bill allows VDH to incorporate into the permit reasonable site-specific special conditions to protect the environment or the health, safety and welfare of persons residing in the vicinity of the proposed application site. VDH must also include in its notice of special conditions such site-specific conditions recommended by the locality. The permit applicant will have at least 14 days to respond to the proposed conditions and any objections shall be heard by the State Health Commissioner. The bill requires permit holder to provide VDH with the evidence of financial responsibility, to be established by regulation, which shall be available to pay claims for cleanup costs, personal injury and property damage. The bill creates a land application certification program to be established by VDH pursuant to which all future land application sites must have a certified land applicator on location at all times during the application process. The bill grants localities that have adopted a biosolids testing and monitoring ordinance the authority to order the abatement of land application activity for violations of relevant laws and regulations. Finally, the bill requests that VDH review certain reports of the National Research Council and the United States Environmental Protection Agency, report its findings to the Virginia Board of Health by June 30, 2004, and if requested by the Board, initiate rulemaking proceedings by September 1, 2004.

6. Fiscal Impact Estimates are: Not Determined.

7. Budget amendment necessary: No.

8. Fiscal implications: Sewage sludge is land applied to approximately 40,000 acres annually in Virginia. The added requirement of nutrient management plans (NMPs) to be developed by certified nutrient management planners for all sewage sludge application sites will result in an estimated

additional 300 to 450 nutrient management plans per year. The plans are anticipated to be developed by employees of the sewage sludge land application contractors that will need to be trained and certified through the Department of Conservation and Recreation's nutrient management certification program. As part of the certification program, the department has audit procedures addressed in regulation 4VAC5-15-10 et seq. whereby several of the nutrient management plans developed by each certified individual may be audited annually to determine compliance with requirements for NMPs in 4VAC5-15-10 et seq. The bill also will increase local government authority to oversee the land application process and collect samples of sewage sludge delivered to receiving sites for subsequent laboratory analysis for nutrients, heavy metals, and pathogens. This change is expected to result in additional inquiries to DCR by localities for nutrient management plan audit even above the level of routine audits that DCR would be performing.

As indicated, DCR anticipates an increased workload resulting from enactment of the proposed changes in the bill. Until the changes are fully implemented, DCR is unable to accurately predict whether additional personnel and fiscal resources will be required and is not identifying fiscal impacts at this time.

DCR will continue to work to identify where additional personnel and fiscal resources may be required once the bill is enacted. The Board of Health is considering the enactment for each permit as authorized in Section 32.1-164.5 of the Code of Virginia, to cover the administration expenses of the biosolids program and regulations. If DCR identifies that additional fiscal resources are needed to implement the provisions of this bill, DCR will work with the Virginia Department of Health to determine whether a portion of the permit fees which may be collected, can be transferred to DCR to cover any increased DCR administrative costs. Thereby any increased fiscal impact we would expect to be borne by NGF permit fees.

9. Specific agency or political subdivisions affected: Department of Conservation and Recreation, Virginia Department of Health

10. Technical amendment necessary: No.

11. Other comments: The programmatic or non-regulatory provisions of this bill are consistent with the Virginia Department of Health's current planning and direction in its Biosolids program. The program is a component of the agency's Office of Environmental Health Services and the specific regulatory provisions of the bill can be met without fiscal impact to the agency as part of its ongoing environmental regulation review and support.

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cc: Secretary of Health and Human Resources
Secretary of Natural Resources