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**HOUSE BILL NO. 1271****FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by Delegate Marshall, R.G.

on January 30, 2004)

(Patron Prior to Substitute—Delegate Dillard)

*A BILL to amend and reenact § 10.1-104.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-546.1, relating to soil and water conservation districts nonpoint source pollution activities.*

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-104.1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 10.1-546.1 as follows:**

§ 10.1-104.1. Department to be lead agency for nonpoint source pollution program.

A. The Department, with the advice of the Board of Conservation and Recreation and the Virginia Soil and Water Conservation Board and in cooperation with other agencies, organizations, and the public as appropriate, shall have the lead responsibility for the Commonwealth's nonpoint source pollution management program. This responsibility includes coordination of the nonpoint source control elements of programs developed pursuant to certain state and federal laws including § 319 of the Clean Water Act and § 6217 of the Coastal Zone Management Act. Further responsibilities include, but are not limited to, the distribution of assigned funds, the identification and establishment of priorities of nonpoint source related water quality problems, and the administration of the Statewide Nonpoint Source Advisory Committee.

B. *The Department shall be assisted in performing its nonpoint source pollution management responsibilities by Virginia's soil and water conservation districts. Assistance by the soil and water conservation districts in the delivery of local programs and services may include (i) the provision of technical assistance to advance adoption of conservation management services, (ii) delivery of educational initiatives targeted at youth and adult groups to further awareness and understanding of water quality issues and solutions, and (iii) promotion of incentives to encourage voluntary actions by landowners and land managers in order to minimize nonpoint source pollution contributions to state waters.*

C. *The Department shall develop a program to assess the nonpoint source pollution impacts on water quality caused by new residential construction. The program shall include a fee schedule based on the Department's assessment of (i) the impacts on water quality associated with new residential construction and (ii) the costs of implementing nonpoint source control measures to eliminate or adequately mitigate such negative impacts. The Department shall complete its assessment and publish the fee schedule, which the Department shall review and update every five years, by July 1, 2005. Thereafter, any locality may adopt an ordinance providing for the collection of nonpoint source residential development impact fees to be paid no later than at the time of issuance of a building permit for construction of a new residential unit. The impact fee shall be in an amount established under the Department's nonpoint source residential impact fee schedule.*

*No such ordinance shall apply in instances where the homebuilder has made an enforceable written offer to pay impact fees, provided that such offer represents the pro-rata share of the cost of eliminating or adequately mitigating the nonpoint source pollution impacts of the proposed development. Further, the homebuilder shall be given a pro-rata credit for actual cash contributions otherwise made pursuant to a proffered zoning condition under the authority of § 15.2-2298 or § 15.2-2303.*

The provisions of this section shall not limit the powers and duties of other state agencies.

§ 10.1-546.1. *Delivery of Agricultural Best Management Practices Cost-Share Assistance Program.*

*Districts shall locally deliver the Commonwealth's Agricultural Best Management Practices Cost-Share Assistance Program, under the direction of the Department of Conservation and Recreation, as a means of promoting voluntary adoption of conservation management practices by farmers and land managers in support of the Department's nonpoint source pollution management program.*