



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1177

Amendment in the Nature of a Substitute

(Patron – Bryant)

Date Submitted: 1/28/04

LD #: 04-3337100

Topic: Stormwater management programs

Proposed Change:

This proposal amends §§ 10.1-603.2 through 10.1-603.9, 10.1-603.11 through 10.1-603.15, and 62.1-44.5, adds §§ 10.1-603.2:1, 10.1-603.2:2, 10.1-603.4:1, 10.1-603.12:1 through 10.1-603.12:7, and 10.1-603.13:1, and repeals § 10.1-603.10 of Article 1.1 of Chapter 6 of Title 10.1 of the *Code of Virginia* relating to the reorganization of stormwater management programs. The proposed legislation consolidates Virginia's stormwater management programs within the Department of Conservation and Recreation, and transfers oversight responsibilities to the Virginia Soil and Water Conservation Board from the Board of Conservation and Recreation.

Under the existing § 10.1-603.14, any person who violates any provision of a local ordinance or program adopted pursuant to the authority of this article shall be guilty of a misdemeanor punishable by a fine not exceeding \$1,000 and up to 30 days incarceration for each violation, either or both. Under subsection A of the proposed § 10.1-603.14, any person who violates any provision of this article, or any regulation or ordinance adopted hereunder, shall be subject to a civil penalty not to exceed \$25,000 for each violation. Under subsection B of the proposed § 10.1-603.14, any person who willfully or negligently violates any provision of this article shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$25,000, either or both. Furthermore, any person who knowingly violates any provision of this article or who knowingly makes a false statement in any form required under this article shall be guilty of a felony punishable by imprisonment from one to three years, or in the discretion of the jury or court trying the case, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation. Any defendant that is not an individual shall, upon conviction under this subsection, be sentenced to pay a fine of not less than \$10,000.

Under subsection C of the proposed § 10.1-603.14, any person who knowingly violates any provision of this article thereby placing another person in imminent danger of death or serious bodily harm shall be guilty of a felony punishable by imprisonment from two to fifteen years and a fine of not more than \$250,000, either or both. Any defendant that is not an individual shall, upon conviction under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

Data Analysis:

Based on fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, there were no misdemeanor convictions for violations pertaining to Article 1.1 of Chapter 6 of Title 10.1.

Impact of Proposed Legislation:

The proposed legislation may have an impact on state-responsible (prison) beds. The proposal creates new felony offenses not currently specified in the *Code*. The extent of the impact, if any, cannot be determined with existing criminal justice databases. Therefore, the magnitude of any impact cannot be quantified. Similarly, the impact on jails and community corrections cannot be quantified.

Convictions under the proposed legislation would not be covered by the guidelines as the primary (or most serious) offense but could augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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