

*Commission on Local Government*

**Estimate of Local Fiscal Impact**  
2009 General Assembly Session

**Bill:** SB 982      **Patron:** Wagner      **Date:** January 23, 2009

In accordance with the provisions of §30-19.03 – 30-19.03:1.1 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

**I. Bill Summary**

SB 982 requires localities with stormwater control programs using a utility or system of service charges to provide for full or partial waivers of charges to persons who have made stormwater control improvements to a property such that there is a permanent reduction in post-development stormwater flow and pollution loading. The waivers must be based in part on the percentage reduction in stormwater flow and pollution loading from predevelopment to postdevelopment. Currently, it is optional for localities with stormwater control programs that assess charges to provide for such waivers.

**II. Fiscal Impact Analysis**

The purpose of stormwater control is to reduce the danger of flooding and the discharge of pollutants downstream. It is an important issue in developed areas, which are characterized by impervious surfaces such as buildings and pavement. Impervious surfaces will increase the amount of stormwater runoff and decrease surface water quality unless steps are taken to detain, channel, disperse, and/or increase infiltration of stormwater.

Localities may, per § 15.2-2114 of the state code, implement a stormwater control program using a utility or system of service charges. Localities that implement such programs must use the collected revenues for construction and/or maintenance of public stormwater management facilities, as well as associated costs.<sup>1</sup> The necessity for public stormwater management facilities (such as storm sewer systems or detention ponds collecting runoff from multiple properties) is largely a function of development density, and is therefore mainly an urban and suburban issue. Developments in low-density areas will generally install and maintain private facilities on site if they are required.

Particularly in suburban areas, there may be a mixture of public and private stormwater management facilities. Localities may provide full or partial waivers of stormwater control charges for properties with private facilities, based on the reduction of stormwater flow and pollutant loading leaving the property that is due to the private facility. In this

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<sup>1</sup> These could include public maintenance of certain private stormwater management facilities upon agreement with the owner.

way, a locality could avoid charging for services not provided to the property by the public facilities. SB 982 would make the provision of such waivers mandatory.

The Commission on Local Government received fiscal impact statements from 19 localities (the counties of Arlington, Augusta, Campbell, Chesterfield, Fauquier, Henrico, Powhatan, Prince Edward, Rappahannock, Rockingham, and Spotsylvania; and the cities of Chesapeake, Danville, Poquoson, Portsmouth, Roanoke, Virginia Beach, Williamsburg, and Winchester). Sixteen of the localities have either not adopted stormwater control programs pursuant to § 15.2-2114, or already provide for waivers. Therefore, HB 982 will have no impact on them. The remaining three localities provided more complex assessments:

#### **Arlington County**

#### **No net reduction in revenue**

Arlington has a stormwater control program, but not pursuant to § 15.2-2114. In April 2008, the county board established a dedicated funding source for public stormwater control efforts by using an existing sanitary district. The sanitary district was established in 1930 and offers a vehicle to assess additional taxes for certain services. In the sanitary district, properties are assessed \$0.01 per \$100 of assessed value for public stormwater control efforts. Under sanitary districts, properties must be uniformly assessed per state code and no waivers are authorized. For ease of administration, Arlington chose to use its sanitary district to raise revenues rather than form a new stormwater utility. SB 982 does not address sanitary districts, so Arlington will not be affected by the bill.

#### **Rockingham County**

#### **Less than \$5,000 reduction in revenue**

Rockingham County anticipates that some developers may apply for waivers as a result of the bill, but the charges waived will not be enough to reduce county revenue more than \$5,000.

#### **City of Chesapeake**

#### **Foregone revenue due to partial waivers \$463,925**

The City of Chesapeake's stormwater utility charges fees on all developed residential and nonresidential parcels (undeveloped parcels are not charged), and has a waiver provision. There are 71,044 parcels (accounts), and estimated 2009 revenues are \$13,644,976. There are 172 parcels with partial waivers resulting in credits of \$263,925. These are expected to increase by \$200,000 in 2009. Thus, the total amount of waivers is \$463,925. By making waivers mandatory, the state reduces the city's potential collections by \$463,925; however, there is no immediate effect because the city already has opted to include a waiver provision in its stormwater utility ordinance.

### **III. Conclusion**

The fiscal impact of SB 982 would vary from locality to locality. Those that do not have service charges for stormwater control programs would not be affected. Localities that have programs with waiver provisions would be affected in the sense that

they would lose the flexibility to later rescind the waivers they have granted. The only localities to experience direct fiscal impact would be those with stormwater control programs but no waiver provisions. These localities might experience an actual revenue loss, the extent of which would vary with the amount of development in the locality and the design of the local waiver process. Typically, local ordinances give the responsibility to request a waiver to the developer, who is most likely to apply during construction or soon thereafter, when stormwater management calculations are fresh and engineered plans are readily available. Therefore, waivers are most likely to be applied to newly developed rather than already developed sites, which will ease the fiscal impact. On the whole, it is unlikely that SB 982 will cause localities to lose any revenue that they currently receive.