

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: SB1060

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: McDougale

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Impounding structure; determination of hazard potential classification, development of permit.

- 5. Summary:** This bill allows the Director of the Department of Conservation and Recreation (DCR) to provide financial assistance, employ staff or directly contract for the determination of the hazard classification for impounding structures, dam break analysis, the mapping and digitization of dam break inundation zones, incremental damage analysis, and other engineering requirements such as emergency action plan development. To recover a portion of the cost of these services, DCR may establish a fee not to exceed 50 percent of the cost, to be paid by the dam owner. The rest of the services shall be provided for by funding in the Dam Safety, Flood Prevention, and Protection Assistance Fund (the Fund). DCR may also utilize monies in the Fund to maintain a statewide dam failure early warning system in cooperation with the Department of Emergency Management and the U.S. National Weather Service.

Dam owners whose impounding structure is not classified, or whose impounding structure is already classified but the owner believes that conditions indicate that the hazard potential classification should be reduced, may request that DCR conduct a simplified dam break inundation zone analysis to determine whether the impounding structure has a low hazard potential classification. Dam owners shall pay a fee not to exceed 50 percent of the costs for such services. If DCR finds that the impounding structure has a low hazard potential classification, the owner shall be eligible for coverage under a general permit; if DCR finds that the impounding structure has high hazard potential, the owner's engineer shall provide further analysis. Dam owners aggrieved by a DCR decisions shall have the right to judicial review.

This bill also permits DCR, through the Virginia Soil and Water Conservation Board to develop a general permit for the regulation of low hazard potential impounding structures. The bill sets-out the regulations and ongoing requirements for this classification. Failure to comply with the provisions of the general permit may result in civil or criminal penalties.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final.

- 8. Fiscal Implications:** This bill expands DCR's authority to permit the agency to issue general permits for the regulation of low hazard potential impounding structures. The agency is authorized to charge fees of up to 50 percent of the cost of services provided in accordance with the provisions of this bill. In addition, the bill extends the civil and criminal penalty charges for violation of provisions to the general permits granted for the regulation of low hazard potential impounding structures. Any monies collected from fees or civil penalties are to be deposited to the Dam Safety, Flood Prevention, and Protection Assistance Fund (the Fund). Monies collected from criminal penalties are to be deposited to the Literary Fund. The revenue potential for additional fees or penalties resulting from this bill is not known at this time.

In addition, the bill expands the permissible uses of monies in the Fund. Specifically, the bill authorizes DCR to expend moneys from the Fund to employ staff or directly contract for services associated with hazard classification, dam break analysis, the mapping and digitization of dam break inundation zones, incremental damage analysis, and other engineering requirements such as emergency action plan development. As such, any additional costs created by this bill can be absorbed within current resources allocated to the Fund.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Conservation and Recreation, Department of Emergency Management.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: February 18, 2011

c: Secretary of Natural Resources