

**Department of Planning and Budget
2012 Fiscal Impact Statement**

1. Bill Number: SB402

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Hanger

3. Committee: Agriculture, Conservation and Natural Resources

4. Title: Nutrient Offset Fund.

5. Summary: This bill establishes as a priority for funding from the Nutrient Offset Fund (the Subfund), a subfund of the Virginia Water Quality Improvement Fund administered by the Department of Environmental Quality (DEQ). Specifically, the bill establishes as initial priority, those nutrient offsets that are produced from facilities that generate electrical or heat energy, steam, or hot water using animal waste as a fuel source. The initial priority for funding will be the oxygen-starved gasification of up to 75,000 tons of animal waste per year that has been generated on poultry or dairy farms in Augusta, Page, Rockingham, and Shenandoah Counties. The nutrient offsets purchased with monies from the Subfund will be available for sale to owners or operators of new or expanded facilities required to offset nutrient loads through the watershed general permit. An enactment clause to the bill requires DEQ and the Department of Conservation and Recreation (DCR) to conduct a 12-month assessment of the success of the operation of the first gasification facility to receive initial priority.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Preliminary.

8. Fiscal Implications: The bill contains provisions that direct, until January 1, 2026, that initial priority for uses of monies in the Subfund is for facilities that produce nutrient offsets and generate electrical or heat energy, steam, or hot water using animal waste as a fuel source. The bill directs that nutrient offsets with initial priority be purchased by the Subfund or by DEQ for subsequent sale to farmers or localities within the Potomac or Shenandoah River watersheds.

Currently, under line 25, the Director of DEQ “shall use monies in the Subfund only to purchase nutrient offsets that achieve equivalent point or nonpoint source reductions in the same tributary...”. If the intent of the bill is to limit the purchase of nutrient offsets only with monies in the Subfund, then any fiscal impact from the bill is indeterminate at this time because, at present, there is no appropriation for the Subfund.

However, line 40 of the bill proposes new language, stating: “after adjustments are made using the appropriate Chesapeake Bay nutrient load delivery factors for nitrogen and phosphorus, the Nutrient Offset Fund **or** [DEQ] shall purchase nutrient offsets...” (emphasis added). If the intent of the proposed language is to use Subfund appropriations **or** current appropriations in DEQ, then in as much as this bill requires that DEQ purchase nutrient offsets, it may result in additional costs to the agency, especially if the agency is unable to resell the credits, or is forced to sell them at a cost less than that which was originally paid. The amount paid by DEQ would be dependent upon the market value of nutrient credits and the quantity of nutrient offsets for purchase. As such, any fiscal impact from the bill is indeterminate at this time.

Additionally, the bill directs DEQ and DCR to conduct a 12-month study of the success of the operation of the first gasification facility converting more than 10,000 tons of animal waste per year to receive initial priority. It is anticipated that any costs associated with this study can be absorbed within the agencies’ current resources.

9. Specific Agency or Political Subdivisions Affected: Department of Environmental Quality, Department of Conservation and Recreation.

10. Technical Amendment Necessary: Line 14 specifies that the Nutrient Offset Fund is to be referred to as “the Subfund” for the remainder of the section. As such, the reference to “Nutrient Offset Funds” on line 38, if referring to the monies in the Subfund, should be rewritten as “Subfunds”. Additional references that would need to be changed are as follows: Line 41, strike “Nutrient Offset Fund,” and insert “Subfund”, and line 44, strike “Fund” and insert “Subfund”.

11. Other Comments: None.

Date: 1/31/2012