

## Department of Planning and Budget 2013 Fiscal Impact Statement

**1. Bill Number:** HB1488

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

**2. Patron:** Rush

**3. Committee:** Agriculture, Chesapeake and Natural Resources

**4. Title:** Stormwater management program; delays the date that local governments will have for administering.

**5. Summary:** This bill delays by one year, the date that local governments will have to assume responsibility for administering the stormwater management program. Currently, the date is set for July 1, 2014; this bill changes it to July 1, 2015.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Preliminary; see item 8, below.

**8. Fiscal Implications:** This bill would delay, by one year, the effective date for localities to assume responsibility for the administration of stormwater management programs. Currently, administration of stormwater management programs by localities is mandatory only for 84 of the localities within Chesapeake Bay watershed (Tidewater - East of I-95); however, statewide, the Department of Conservation and Recreation currently oversees all regulated land-disturbing activities through the administration of the Construction General Permit under the authority of the federal Clean Water Act. Additionally, every locality statewide administers a local erosion and sediment control program. The implementation of these program responsibilities has led to overlapping inspections, enforcement, and project oversight. It was the intention of the existing law to consolidate land-disturbing project oversight beginning in July of 2014 within local programs and as a result streamline permitting for those regulated and reduce duplication at the state and local level.

Accordingly, while this bill delays the start date for localities to assume responsibility for administering stormwater management programs, it does not delay the start date for new stormwater regulations and the implementation of the new federally required Construction General Permit in July 2014. With the proposed delay, it remains unclear how oversight of stormwater programs and implementation of the construction general permit requirements between July 1, 2014, and July 1, 2015 (the date to which the bill delays local implementation of stormwater management programs) will be managed. The potential remains for DCR to incur costs related to establishing and administering a program within localities for this one-year time period of delayed implementation. The amount of these costs along with the budgetary impact is indeterminate at this time.

Associated issues related to the delay of implementation could impact the development community. The new regulations require regulator review of stormwater plans before land disturbance can begin. Local implementation delay would place the state in the position of approving plans for localities for a year, and any plan review delay based on state staff resources could cause construction and development delays statewide.

In addition, stormwater regulations were amended in November of 2012 to further reflect a July 2014 implementation date in anticipation of local program control. These same regulations may have to be amended again to accommodate for a one year delay.

Finally, Item 358 C. of Chapter 3, Special Session I, 2012 Acts of Assembly (the 2012 Appropriation Act) already authorized the expenditure of up to \$1 million from balances in DCR's WQIF reserve for grants to assist localities with establishing stormwater management programs. These funds were matched by an additional \$1 million in federal grant funds that the Agency received. It is indeterminate what type of impact a delay in the start date for localities to implement stormwater management programs would have on state grants already provided to localities to assist in the development of these programs (as grants already made were based on an assumed program start date of July 1, 2014).

Moreover, Item 360 M.1. of HB 1500/SB800 (the Introduced Budget) provides language designating \$2.3 million of the FY 2013 general fund deposit to the Water Quality Improvement Fund (WQIF), for grants to localities and for development of a state program at the Department of Conservation and Recreation (DCR) to provide assistance to localities with stormwater programs, under the premise of a July 1, 2014 implementation date. It is not known how a delayed date for local implementation of stormwater management programs would impact the utility of these grant funds.

**9. Specific Agency or Political Subdivisions Affected:** Department of Conservation and Recreation, all localities.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** Stormwater management programs and regulations are a critical component of statewide efforts to achieve reductions in nonpoint source water pollution. State goals for specified reduction in water pollutant levels are outlined in Virginia's Chesapeake Bay TMDL Watershed Implementation Plan (WIP) accepted by the federal Environmental Protection Agency in April 2012 and in similar TMDL plans for waterbodies across the Commonwealth. In accordance with these plans, Virginia's localities are obligated to achieve specified reductions in their respective watersheds within published deadlines. As such, it is not known how delaying the start date for local administration of stormwater management programs may impact achievement of benchmarks published in the aforementioned guidance documents.

**Date:** 1/24/2013

**Document:** G:\ACD\Legislative Session 2013\FIS\DCR\HB1488.docx