

Department of Planning and Budget 2014 Fiscal Impact Statement

1. Bill Number: HB1168

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

2. Patron: Fariss

3. Committee: Agriculture, Chesapeake and Natural Resources

4. Title: Wetland and stream mitigation banks.

5. Summary: Prohibits state land, including forest land or other state-owned property, from being used to provide compensatory mitigation for wetland or stream impacts for any public or private project. State-owned land, including forest land, means all sites, roadways, game food patches, ponds, lakes, streams, rivers, beaches, and lakes to which the Department of Forestry or other state agency holds title for use, development, and administration. Any existing mitigation agreement executed previous to July 1, 2014, is excluded from this restriction.

6. Budget Amendment Necessary: Yes, a language amendment to Items 102 of HB29/SB29 and 98 of HB30/SB30 to ensure the budget language and this bill do not conflict.

7. Fiscal Impact Estimates: Preliminary, see Item 8.

8. Fiscal Implications: The estimated fiscal impact cannot be determined at this time since it would depend on the actual number and size of the projects. However, the State fiscal impact resulting from this bill could be significant given that it prohibits any state-owned property, not only the Department of Forestry, from being used to provide compensatory mitigation for wetland or stream impacts for any public or private project.

The bill could potentially impact state revenues and expenditures. Currently, the entity, including a state agency or higher education, that is causing an adverse impact to a wetlands or stream may be allowed to satisfy all or part of such mitigation requirements by the purchase or use of credits from any wetland or stream mitigation bank in the Commonwealth. This includes projects within their own agency, other state agencies, or from private parties. In some cases, this provides revenue to the agency that has the wetland or stream bank. This bill could prevent agencies from using state owned right-of-way and other properties for any future compensatory mitigation and would prevent acquisition of lands to use for compensatory mitigation in the future.

Without the option of developing a state-owned mitigation site, and with a finite number of mitigation credits available through private mitigation banks, securing regulatory permits would be increasingly difficult, and an agencies' capital outlay project and/or highway project may be

stalled. Having a finite number of mitigation credits through private mitigation banks could also make acquisitions more expensive since state agencies may have to “compete” for what is available. Given this, there could also be an impact to an agency’s ability to meet Environmental Protection Agency mandated TMDL (Total Maximum Daily Load - pollution limit) reductions.

All state agencies with construction projects could be impacted, with the following having the most significant:

- The Department of Transportation (highways, bridges, and other supporting infrastructure)
- Colleges and Universities (facility and campus expansions)
- Department of Corrections/Department of Juvenile Justice (prison expansions)
- Department of Conservation and Recreation (facility construction in state parks)

Although the State Corporation Commission would not be impacted directly, public utilities that construct power plants, electric transmission lines, or gas pipelines could be impacted.

9. Specific Agency or Political Subdivisions Affected: All state agencies with construction projects, state agencies with state-owned property, public utilities, private companies under contract through a Public-Private Transportation Act (PPTA) agreement, or a Public-Private Education Facilities and Infrastructure Act (PPEA) agreement.

10. Technical Amendment Necessary: No.

11. Other Comments: Chapter 806 (2013 Acts of Assembly), and the introduced budget bills (HB29/SB29 and HB30/SB30) include language under the Department of Forestry that prevents property, to which the Department holds title, from being used to provide compensatory mitigation for wetland or stream impacts of any public or private project until such time as due consideration has been given to the availability of mitigation credits available from private sources.