

Department of Planning and Budget 2014 Fiscal Impact Statement

1. Bill Number: HB1168-H1

House of Origin	<input type="checkbox"/> Introduced	X 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: Appropriations

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. However, this restriction shall not apply to the following: a) if the Commonwealth does not hold title to the land at the time the mitigation activity is proposed and the subsequent acquisition of the state land accomplishes the preservation; b) when a state agency impacts wetlands or streams on land owned by their agency, then they can provide compensatory mitigation on their own agency's land; c) or for a project undertaken by a state institution of higher education or a foundation on land that the state institution of higher education or foundation holds title for use, development, and administration. "State land" means all sites, roadways, forestlands, and other properties that a state agency holds title, except for subaqueous lands such as stream and river beds. Any existing mitigation agreement executed previous to July 1, 2014, is excluded from this restriction.

6. Budget Amendment Necessary: Yes, a language amendment to Item 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 from this substitute bill cannot be determined at this time. The bill does not allow an institution of higher education or foundation to use other state lands or another institution of higher education or foundation land, a state agency to use state institution of higher education or foundation land, or for a state agency to use another state agency's land for mitigation. Currently, a state institution of higher education or a state agency 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 bill places a limit on those options.

Without the option of developing all state-owned mitigation sites, and with a finite number of mitigation credits available through private mitigation banks, securing regulatory permits could be difficult to obtain in the future.

In addition, the bill appears to attempt to exempt Commonwealth-owned subaqueous lands from the bill's prohibition by excluding them from the definition of "state land" to which the prohibition applies. However, "state land" is used (line 61) as a permissible allowance.

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.

At the time of submission of this fiscal impact statement, the Virginia Department of Transportation had not provided a response on this substitute bill.

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 (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.

HB1168H1.doc/jlm
Date: 02/07/2014

cc: Secretary of Natural Resources