

## Department of Planning and Budget 2014 Fiscal Impact Statement

**1. Bill Number:** HB1168-H2

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

**2. Patron:** Fariss

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

**4. Title:** Wetland and stream mitigation banks.

**5. Summary:** Provides that state lands that are used to provide compensatory mitigation for wetland or stream impacts shall be used only for projects undertaken by a state agency, or a foundation related to a state institution of higher education, on land which the agency or foundation owns. "State land" means all sites, roadways, forestlands, and other properties owned by any state agency, except for subaqueous lands including stream and river beds. Any mitigation agreement executed prior to July 1, 2014, is excluded from the restriction provided in this subsection.

**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. The House proposes a budget amendment that strikes Item 98 that potentially conflicts with this bill. Additionally, the House proposes a budget amendment that removes similar language in Item 103 of HB29/SB29.

**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 could potentially impact state revenues and expenditures. The bill does not allow an institution of higher education or foundation to use other state lands or lands owned by another institution of higher education or foundation land, a state agency to use state institution of higher education or foundation, 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. These options would no longer be available under the provisions of this bill.

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. All state agencies with construction projects could be impacted.

In addition, the bill appears 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.

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.

Any fiscal impact this bill may have to the Virginia Department of Transportation is unknown.

**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 bill for the 2014-16 biennium and the Caboose Bill (HB29/SB29), 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. The House is proposing a budget amendment to both bills that eliminates this requirement. As this bill does not contain an "emergency clause," its provisions would become effective July 1, 2014.

HB1168H2.doc/jlm

Date: 02/27/2014

cc: Secretary of Natural Resources