

Department of Planning and Budget

2016 Fiscal Impact Statement

1. Bill Number: SB673-ER

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

2. Patron: Hanger

3. Committee: Passed Both Houses

4. Title: Erosion & Stormwater Mgmt. Act; consolidation of programs; opt-out for certain localities;penalty.

5. Summary: Combines existing statutory programs relating to soil erosion and stormwater management, directing the State Water Control Board (the Board) to permit, regulate, and control both erosion and stormwater runoff.

The bill requires any locality that operates a municipal separate storm sewer system (MS4) or a Virginia Stormwater Management Program (VSMP) to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity that disturbs an area of 10,000 square feet or more, or 2,500 square feet or more if in a Chesapeake Bay Preservation Area. A locality that lacks an MS4 and for which the Department of Environmental Quality (DEQ) is currently administering a VSMP is required to (i) adopt such a VESMP, (ii) adopt such a VESMP with DEQ conducting plan review and making recommendations on the compliance of each plan with technical criteria, or (iii) continue to operate a separate Virginia Erosion and Sediment Control Program (VESCP) that regulates any disturbance of 10,000 square feet or more and, in a Preservation Area, regulates a disturbance of 2,500 square feet or more and meets certain other requirements. Any eligible locality that chooses the third option is to have a VSMP administered on its behalf by the Board for any land-disturbing activity that disturbs one acre or more of land, including an activity that disturbs a smaller area but is part of a larger development that results in a disturbance of one acre or more. Towns are afforded additional options in relation to the counties in which they are located.

The bill directs certain charges or penalties to the Stormwater Local Assistance Fund, which provides matching grants to local governments for stormwater best management practices. Finally, the bill directs DEQ to evaluate fees related to the consolidated Virginia Erosion and Stormwater Management Program and directs the Board to adopt regulations to carry out the purposes of the bill, delaying the effective date of the bill until the later of July 1, 2017, or 30 days after the adoption of such regulations.

The changes noted in this substitute bill seek to clarify the provisions of the bill and are considered technical.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final.

8. Fiscal Implications: According to the Department of Environmental Quality (DEQ), the state fiscal impact of this bill is indeterminate at this time. This is due to the unknown number of current “opt-out” localities that choose to “opt-in” to the program. These localities could continue to have DEQ operate their Stormwater program for them, could run their own Virginia Erosion and Stormwater Management Program (VESMP), or could become the VESMP authority with assistance from DEQ on plan review. The number of these potential changes and any potential impacts on staffing is unknown at this time.

The eighth enactment clause of this bill requires that DEQ conduct an evaluation of fees in order to determine whether the program can be funded adequately under the current fee structure. Once this fee study is complete, DEQ will report the results of its evaluation and the Stormwater Advisory Group’s discussion to the Governor and the General Assembly by the first day of the 2017 Session of the General Assembly.

9. Specific Agency or Political Subdivisions Affected:

10. Technical Amendment Necessary: No.

11. Other Comments: This is similar to HB 1250.