

20107387D

## SENATE BILL NO. 747

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources  
on February 4, 2020)

(Patron Prior to Substitute—Senator Hanger)

A BILL to amend the Code of Virginia by adding a section numbered 62.1-44.19:21.2, relating to nutrient and sediment credit generation and transfer.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 62.1-44.19:21.2 as follows:  
§ 62.1-44.19:21.2. Nutrient and sediment credit generation and transfer; public body.

A. Except as provided in subsection B, the only nonpoint nutrient credits that shall be transferred pursuant to either (i) § 62.1-44.15:35 or (ii) subsections B, C, and D of § 62.1-44.19:21 are nutrient credits generated by the private sector, including credits generated by the private sector pursuant to an agreement with a public body.

B. Other than for purposes of subsection A of § 62.1-44.19:21, nutrient credits or sediment credits generated by a project undertaken by a public body, including a locality, and certified by the Department shall be used only by such public body and only for the purpose of compliance with the provisions of this chapter by such public body's project. For the purposes of this subsection, the term "public body's project" means a project for which the public body is the named permittee and for which no third party conducts any lease, sale, grant, transfer, or use of the project or its nutrient or sediment credits.

C. Point source phosphorus credits, point source nitrogen credits, and sediment credits generated by a public body through a publicly owned treatment works permitted under the Watershed General Virginia Pollutant Discharge Elimination System (VPDES) Permit pursuant to § 62.1-44.19:14 may be used by such public body for the purpose of compliance with subsection B of § 62.1-44.19:21 by the public body's project in the limited circumstance of constructing or expanding the treatment works, wastewater collection system, or other facility used for public wastewater utility operations, provided that the public body may use such point source credits only if (i) notice is given by the public body to the Department, (ii) a ratio of 10 point source nitrogen credits for each point source phosphorus credit used is also transferred and applied toward the land-disturbing project, and (iii) the credits are classified as permanent by means of a wasteload allocation reduction or another means, acceptable to the Department, that ensures an equivalent benefit. Except for a water reclamation and reuse project at a treatment works, no more than 10 pounds per year of point source phosphorus credit may be applied toward a single project's postconstruction phosphorus control requirement.

D. Nothing in this section shall be construed to prevent any (i) public body, including a locality, from entering into an agreement with a private third party for the development of a project to generate nonpoint nutrient credits on terms and conditions upon which the public body and private third party agree or (ii) locality from operating a locality pollutant loading pro rata share program for nutrient reductions established pursuant to § 15.2-2243.