

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB1192

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Lopez

3. Committee: Courts of Justice

4. Title: Aboveground storage tanks; Hazardous Substance Aboveground Storage Tank Fund.

5. Summary: Directs the State Water Control Board to regulate aboveground storage tanks that measure more than 1,320 gallons in capacity and are used to contain hazardous substances other than oil. The bill directs the Board to adopt regulations that establish requirements for registration, certification, and inspection, and other requirements of tank owners, and that establish a schedule of fees. The bill authorizes the Board to undertake corrective action, or to require the owner to undertake corrective action, in the event of a discharge of a hazardous substance. The bill requires tank owners to register their tanks, pay certain registration fees, develop release response plans, upgrade certain older tanks, install containment infrastructure for certain aboveground storage tanks, notify certain parties in the event of a release of a regulated substance, and demonstrate their financial responsibility. The bill also creates the Hazardous Substance Aboveground Storage Tank Fund for the administration of the bill and provides for civil and criminal penalties for violations of requirements of the bill, with the moneys received to be deposited into the existing Virginia Environmental Emergency Response Fund.

6. Budget Amendment Necessary: Yes. HB30/SB30, Item 402 (Department of Corrections)

7. Fiscal Impact Estimates: Preliminary. See item 8.

Expenditure Impact: Department of Corrections

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2020	-	-	-
2021	\$50,000	-	General Fund

8. Fiscal Implications: This bill assigns new responsibilities to the Department of Environmental Quality (DEQ), including adoption of new regulations, development and implementation of a storage tank registry, periodic inspection and monitoring of storage tanks, evaluation of discharge response plans, remediation activities in case of a discharge incident, and enforcement of civil penalties.

This bill establishes the Hazardous Substance Aboveground Storage Tank fund and directs DEQ to collect a registration fee and annual renewal fees from each operator of an aboveground tank and to deposit the fee revenue to Fund. The Fund is to be used to support the cost of administering and implementing the program, except for corrective action or emergency response, and the amount of the registration and renewal fees is to be set at an amount sufficient to cover the program's operating expenses. The bill further provides that DEQ can assess cost recovery and civil penalties for discharge incidents, which are to be deposited into the Virginia Emergency Response Fund.

The program described in this bill is a new regulatory initiative for DEQ. According to DEQ, sufficient existing resources are available to begin initial program implementation, and anticipated non-general fund revenues are expected to cover additional resource needs. DEQ anticipates a need of two Guidance and Regulation Coordinator positions in fiscal years 2021 and 2022 for initial registration processing, fee handling, and regulatory development. Once the program is established, DEQ estimates a need of nine additional Guidance and Regulation Coordinator positions, to be supported through the newly established fee schedule. In order to implement an online registration platform, DEQ estimates an initial expenditure of \$300,000 the first year, and an ongoing technology maintenance cost of \$50,000.

Revenues anticipated from this bill are indeterminate. Revenues from fees deposited to the Hazardous Substance Aboveground Storage Tank Fund are expected to include approximately 12,000 registrations at an estimated cost of \$200 each, generating \$2.4 to \$3.0 million, with subsequent biennial renewals. Revenues in non-renewal years are estimated to range from \$75,000 to \$279,000 annually. The number of registrations is expected to increase over time. The revenue resulting from civil penalties is indeterminate, as it is not possible to estimate the number of violations that will occur; violators will be assessed a civil penalty. Revenue generated from the civil penalties is to be deposited into the Virginia Emergency Response Fund.

This bill establishes criminal penalties. Misdemeanors include the violation of regulatory and administrative provisions of the proposed bill, as well as negligent discharge of hazardous substances into Commonwealth waters. False representations in documents required by the proposed bill and willful discharge of hazardous substances into Commonwealth waters are established as felony offences. The Virginia Sentencing Commission (VSC) cannot determine the expenditure impact of this bill on the Department of Juvenile Justice or local jails. Pursuant to § 30-19.1:4, the VSC anticipates a minimum fiscal impact of \$50,000 to the Department of Corrections as a result of the proposed bill.

9. Specific Agency or Political Subdivisions Affected: Department of Environmental Quality; State Water Control Board; Courts; Department of Corrections; Department of Juvenile Justice; jails; localities

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is a companion to SB626.