

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB1011

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

2. Patron: Guzman

3. Committee: Health Welfare and Institutions.

4. Title: Commissioner of Health; study of the occurrence of PFOA, PFOS, PFBA, PFHpA, PFHxS, PFNA.

5. Summary: Directs the Commissioner of Health to convene a work group to study the occurrence of perfluoroalkyl and polyfluoroalkyl substances (PFAS), including perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), perfluorobutyrate (PFBA), perfluoroheptanoic acid (PFHpA), perfluorohexane sulfonate (PFHxS), perfluorononanoic acid (PFNA), hexafluoropropylene oxide-dimer acid (HFPO-DA), perfluorohexanoic acid (PFHxA), perfluoropentanoic acid (PFPeA), and perfluorobutane sulfonic acid (PFBS), in drinking water in the Commonwealth. The work group shall report its findings and recommendations to the Governor and the Chairmen of the House Committees on Agriculture, Chesapeake and Natural Resources and Health, Welfare and Institutions and the Senate Committees on Agriculture, Conservation and Natural Resources and Education and Health by December 1, 2023.

6. Budget Amendment Necessary:

7. Fiscal Impact Estimates:

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2023	\$612,717	1	01000
2024	\$50,158	0.5	01000

8. Fiscal Implications: The provisions of this legislation would have a fiscal impact on the Virginia Department of Health. The bill states that the Commission of Health shall convene a workgroup to study of the occurrence of PFOA, PFOS, PFBA, PFHpA, PFHxS, PFNA in the Commonwealth's public drinking water. In determining current levels of contamination VDH shall: 1) prioritize certain waterworks and treatment works as stated in the bill; 2) Utilize a hybrid approach that takes into account potential risk or likelihood of finding PFAS in drinking water, the location of waterworks or the source of water in relation to potential sources of PFAS, and other factors for the sample study design rather than random sampling; 3) develop a temporal data set by collecting multiple samples from each location to gather data regarding variations in the prevalence of PFAS in the Commonwealth's drinking water;

and 4) focus on entry point sampling and exclude consecutive waterworks from sampling. The workgroup shall report its findings and recommendations by December 1, 2023.

According to VDH, there are currently over 2,800 total waterworks in the Commonwealth of Virginia. Out of the 2,800 waterworks, there are approximately 1,600 community and nontransient noncommunity waterworks, which make up an estimated 60% of the waterworks in Virginia. These waterworks serve the same populations on a day-to-day basis, such as waterworks serving homes, factories, and schools. The other 40% of waterworks primarily serve transient populations, which are waterworks that serve restaurants, campgrounds, and parks. Approximately 86% of waterworks are “small,” meaning they serve 3,300 or fewer persons. In contrast, the 17 largest waterworks in Virginia serve over 4.5 million consumers of roughly 7.5 million consumers statewide. HB1011 requires VDH to prioritize sampling at small waterworks since they were not a focus of a similar 2021 study, but make up the majority of waterworks in the state.

In order to conduct a study that is able to meet the requirements in the bill (please see note in item 11) VDH plans to collect and analyze water samples from approximately 33% of the small community and nontransient noncommunity waterworks in Virginia, which is approximately 600 waterworks. Since the bill requires multiple samples from each location, VDH will conduct sampling at two time points, fall 2022 and spring 2023, to assess temporal variation in PFAS presence/concentrations. For quality assurance/quality control purposes, VDH will also collect a total of 10% field reagent blanks and 10% duplicate samples (approximately 120 samples in total). Confirmatory sampling will be conducted at locations with high PFAS detections (approximately 2% of samples, or 12 samples per event). The cost for environmental sampling for PFAS is estimated to be in the range of \$325 to \$350 per sample (depending on the lab, the number of samples, the detection limit, etc.). At \$350 per sample, it will cost \$256,200 (732 samples x \$350 per sample) to conduct sampling at each time point (fall 2022 and spring 2023). Total costs for sampling would be \$512,400 in FY 2023.

VDH’s drinking water program cannot absorb the cost associated with the sampling requirements as proposed in the bill. Additionally, VDH does not have sufficient staff to coordinate laboratory testing, coordinate with waterworks and laboratories to schedule activities, receive and review sample results, enter the results into a spreadsheet or other database for reporting and analysis, provide regular status updates to the work group and other stakeholders, and take primary responsibility for preparing the required report. VDH will hire a technical specialist or consultant to handle these responsibilities along with support from existing drinking water program staff. Based on experience from the limited study in 2021 and a PFAS sampling effort that is in progress in Henrico County, the role will be equivalent to a full-time staff person for the duration of the study and reporting period. The average total personnel service cost (salary plus fringe benefits) is anticipated to be \$100,317 (2,000 hrs per year at \$45/hr) for FY2023 and \$50,158 for FY2024 (1,000 hours at \$45/hr).

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Health.

10. Technical Amendment Necessary: Yes. VDH expects to work with the patron to make amendments to the bill to make technical corrections (e.g., in paragraph 1.(iii.), publicly owned treatment works do not provide drinking water, instead, water that they treat and discharge to surface waters may contain PFAS, which could end up in downstream waterworks' source water).

11. Other Comments: Acts of Assembly Chapter 611 (2020, HB586) required the State Health Commissioner to form a work group to study the occurrence of PFAS in public drinking water in Virginia. As passed, the legislation limited the study to no more than 50 waterworks and water sources. The study that VDH completed in 2021 reported results from 63 samples taken at 45 waterworks. The report from the 2021 study, RD877 - Study of the Occurrence of Per- and Polyfluoroalkyl Substances (PFAS) in the Commonwealth's Public Drinking Water – December 1, 2021 (<https://rga.lis.virginia.gov/Published/2021/RD877>), recommended expanding the scope of the study since there are more than 2,800 waterworks in Virginia. HB1011 includes details about the nature and scope of the study the work group, in conjunction with VDH, will conduct. The requirements are based on the recommendations in RD877 and the fiscal impact is based on meeting those requirements. They include:

1. Prioritize analysis of drinking water provided by (i) small waterworks serving fewer than 3,300 customers; (ii) waterworks of all sizes located adjacent to or in close proximity to active or decommissioned military installations, airports or fire-training facilities, unlined landfills, or industrial facilities that may have manufactured or used compounds containing PFAS; (iii) publicly owned treatment works with industrial users that may have manufactured or used compounds containing PFAS; (iv) waterworks in rural areas of the Commonwealth, particularly rural areas in which funds are not readily available to test for the prevalence of PFAS; and (v) those waterworks previously studied by VDH that had reported levels of PFAS contamination;
2. Utilize a hybrid approach that takes into account potential risk or likelihood of finding PFAS in drinking water, the location of waterworks or the source of water in relation to potential sources of PFAS, and other factors for the sample study design rather than random sampling;
3. Develop a temporal data set by collecting multiple samples from each location to gather data regarding variations in the prevalence of PFAS in the Commonwealth's drinking water; and
4. Focus on entry point sampling and exclude consecutive waterworks from sampling.