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HOUSE BILL NO. 1710**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 15, 2007)

(Patron Prior to Substitute—Delegate Callahan)

*A BILL to amend and reenact §§ 10.1-2128, 10.1-2129, and 10.1-2131 of the Code of Virginia, relating to water quality improvement grants for treatment works.***Be it enacted by the General Assembly of Virginia:****1. That §§ 10.1-2128, 10.1-2129, and 10.1-2131 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-2128. Virginia Water Quality Improvement Fund established; purposes.

A. There is hereby established in the state treasury a special permanent, nonreverting fund, to be known as the "Virginia Water Quality Improvement Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of sums appropriated to it by the General Assembly which shall include, unless otherwise provided in the general appropriation act, 10 percent of the annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and 10 percent of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act. The Fund shall also consist of such other sums as may be made available to it from any other source, public or private, and shall include any penalties or damages collected under this article, federal grants solicited and received for the specific purposes of the Fund, and all interest and income from investment of the Fund. Any sums remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. All moneys designated for the Fund shall be paid into the state treasury and credited to the Fund. Moneys in the Fund shall be used solely for Water Quality Improvement Grants. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon the written request of the Director of the Department of Environmental Quality or the Director of the Department of Conservation and Recreation as provided in this chapter.

B. The purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts, institutions of higher education and individuals for point and nonpoint source pollution prevention, reduction and control programs and efforts undertaken in accordance with the provisions of this chapter. The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, nongeneral, or special funds allocated or appropriated to any state agency; however, nothing in this section shall be construed to prevent the award of a Water Quality Improvement Grant to a local government in connection with point or nonpoint pollution prevention, reduction and control programs or efforts undertaken on land owned by the Commonwealth and leased to the local government. In keeping with the purpose for which the Fund is created, it shall be the policy of the General Assembly to provide annually its share of financial support to qualifying applicants for grants in order to fulfill the Commonwealth's responsibilities under Article XI of the Constitution of Virginia.

C. For the fiscal year beginning July 1, 2005, \$50 million shall be appropriated from the general fund and deposited into the Fund. This appropriation and any amounts appropriated to the Fund in subsequent years in addition to any amounts deposited to the Fund pursuant to the provisions of subsection A of § 10.1-2128 shall be used solely to finance the costs of design and installation of nutrient removal technology at publicly owned treatment works designated as significant dischargers or eligible nonsignificant dischargers for compliance with the effluent limitations for total nitrogen and total phosphorus as required by the tributary strategy plans or applicable regulatory requirements.

At such time as grant agreements specified in § 10.1-2130 have been signed by every significant ~~discharger~~ *dischargers* and eligible nonsignificant ~~discharger~~ *dischargers* and available funds are sufficient to implement the provisions of such grant agreements, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance shall review the financial assistance provided under this section and determine (i) whether such deposits should continue to be made, (ii) the size of the deposit to be made, (iii) the programs and activities that should be financed by such deposits in the future, and (iv) whether the provisions of this section should be extended.

§ 10.1-2129. Agency coordination; conditions of grants.

A. If, in any fiscal year beginning on or after July 1, 2005, there are appropriations to the Fund in addition to those made pursuant to subsection A of § 10.1-2128, the Secretary of Natural Resources shall distribute those moneys in the Fund provided from the 10 percent of the annual general fund revenue

60 collections that are in excess of the official estimates in the general appropriation act, and the 10 percent
61 of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not
62 required in the general appropriation act, as follows:

63 1. Seventy percent of the moneys shall be distributed to the Department of Conservation and
64 Recreation and shall be administered by it for the sole purpose of implementing projects or best
65 management practices that reduce nitrogen and phosphorus nonpoint source pollution, with a priority
66 given to agricultural best management practices. In no single year shall more than 60 percent of the
67 moneys be used for projects or practices exclusively within the Chesapeake Bay watershed; and

68 2. Thirty percent of the moneys shall be distributed to the Department of Environmental Quality,
69 which shall use such moneys for making grants for the sole purpose of designing and installing nutrient
70 removal technologies for publicly owned treatment works designated as significant dischargers or
71 eligible nonsignificant dischargers. The moneys shall also be available for grants when the design and
72 installation of nutrient removal technology utilizes the Public-Private Education Facilities and
73 Infrastructure Act (§ 56-575.1 et seq.).

74 3. Except as otherwise provided in the Appropriation Act, in any fiscal year when moneys are not
75 appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128, or when moneys
76 appropriated to the Fund in addition to those specified in subsection A of § 10.1-2128 are less than 40
77 percent of those specified in subsection A of § 10.1-2128, the Secretary of Natural Resources, in
78 consultation with the Secretary of Agriculture and Forestry, the State Forester, the Commissioner of
79 Agriculture and Consumer Services, and the Directors of the Departments of Environmental Quality and
80 Conservation and Recreation, and with the advice and guidance of the Board of Conservation and
81 Recreation, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the
82 Chesapeake Bay Local Assistance Board, and following a public comment period of at least 30 days and
83 a public hearing, shall allocate those moneys deposited in the Fund between point and nonpoint sources,
84 both of which shall receive moneys in each such year.

85 B. 1. Except as may otherwise be specified in the general appropriation act, the Secretary of Natural
86 Resources, in consultation with the Secretary of Agriculture and Forestry, the State Forester, the
87 Commissioner of Agriculture and Consumer Services, and the Directors of the Departments of
88 Environmental Quality and Conservation and Recreation, and with the advice and guidance of the Board
89 of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water
90 Control Board, and the Chesapeake Bay Local Assistance Board, shall develop written guidelines that (i)
91 specify eligibility requirements; (ii) govern the application for and the distribution and conditions of
92 Water Quality Improvement Grants; and (iii) list criteria for prioritizing funding requests.

93 2. In developing the guidelines the Secretary shall evaluate and consider, in addition to such other
94 factors as may be appropriate to most effectively restore, protect and improve the quality of state waters:
95 (i) specific practices and programs proposed in any tributary strategy plan, and the associated
96 effectiveness and cost per pound of nutrients removed; (ii) water quality impairment or degradation
97 caused by different types of nutrients released in different locations from different sources; and (iii)
98 environmental benchmarks and indicators for achieving improved water quality. The process for
99 development of guidelines pursuant to this subsection shall, at a minimum, include (a) use of an
100 advisory committee composed of interested parties; (b) a 60-day public comment period on draft
101 guidelines; (c) written responses to all comments received; and (d) notice of the availability of draft
102 guidelines and final guidelines to all who request such notice.

103 3. In addition to those the Secretary deems advisable to most effectively restore, protect and improve
104 the quality of state waters, the criteria for prioritizing funding requests shall include: (i) the pounds of
105 total nitrogen and the pounds of total phosphorus reduced by the project; (ii) whether the location of the
106 water quality restoration, protection or improvement project or program is within a watershed or
107 subwatershed with documented water nutrient loading problems or adopted nutrient reduction goals; (iii)
108 documented water quality impairment; and (iv) the availability of other funding mechanisms.
109 Notwithstanding the provisions of subsection E of § 10.1-2131, the Director of the Department of
110 Environmental Quality may approve a local government point source grant application request for any
111 single project that exceeds the authorized grant amount outlined in subsection E of § 10.1-2131.
112 Whenever a local government applies for a grant that exceeds the authorized grant amount outlined in
113 this chapter or when there is no stated limitation on the amount of the grant for which an application is
114 made, the Directors and the Secretary shall consider the comparative revenue capacity, revenue efforts
115 and fiscal stress as reported by the Commission on Local Government. The development or
116 implementation of cooperative programs developed pursuant to subsection B of § 10.1-2127 shall be
117 given a high priority in the distribution of Virginia Water Quality Improvement Grants from the moneys
118 allocated to nonpoint source pollution.

119 C. *The provision of Water Quality Improvement Grants for the design and installation of nutrient*
120 *removal technology at those publicly owned treatment works designated as significant dischargers or*
121 *eligible nonsignificant dischargers pursuant to this article shall be made upon written certification that*

122 75% of the local share of the cost of nutrient removal technology for the project has been expended. To
 123 the extent that any publicly owned treatment works designated as a significant discharger or eligible
 124 nonsignificant discharger receives less than the grant awarded pursuant to § 10.1-2131, any (i) annual
 125 general fund revenue collections that are in excess of official estimates in the general appropriation act
 126 and (ii) unreserved general fund balance at the close of a fiscal year that is deposited into the Virginia
 127 Water Quality Improvement Fund pursuant to subsection A of § 10.1-2128 shall be used in a manner to
 128 augment the funding of such projects for which grants have been prorated. However, the total combined
 129 funding or reimbursement for projects for which grants have been prorated, including any supplemental
 130 funding or reimbursement as provided herein, shall not exceed the total reimbursement or funding as
 131 provided under the formula set forth in subsection E of § 10.1-2131.

132 The distribution of Water Quality Improvements Grants for the design and installation of nutrient
 133 removal technology at those publicly owned treatment works designated as significant dischargers or
 134 eligible nonsignificant dischargers pursuant to this article shall be effected by one of the following
 135 methods:

136 1. In one lump sum payment to be paid by the State Treasurer upon request of the Director of the
 137 Department of Environmental Quality out of funds appropriated to the Virginia Water Quality
 138 Improvement Fund;

139 2. Over a specified time through a contractual agreement entered into by the Treasury Board and
 140 approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority
 141 undertaking the design and installation of nutrient removal technology, such payments to be paid by the
 142 State Treasurer out of funds appropriated to the Treasury Board; or

143 3. In one lump sum payment to be made by the Virginia Public Building Authority pursuant to
 144 §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended
 145 by the locality or regional authority for financing such project during the period from 50 percent
 146 completion of construction to final completion of construction. Payments shall be made under this
 147 subdivision only if the General Assembly provides a specific authorization for the Virginia Public
 148 Building Authority to issue bonds to finance the design and installation of nutrient removal technology,
 149 with such authorization including a maximum limit on the aggregate principal amount of bonds that
 150 may be issued by the Authority for such purposes.

151 The General Assembly shall have the sole authority for purposes of determining whether the payment
 152 of grants shall be effected pursuant to subdivision 1, 2, or 3.

153 § 10.1-2131. Point source pollution funding; conditions for approval.

154 A. The Department of Environmental Quality shall be the lead state agency for determining the
 155 appropriateness of any grant related to point source pollution to be made from the Fund to restore,
 156 protect or improve state water quality.

157 B. The Director of the Department of Environmental Quality shall, subject to available funds and in
 158 coordination with the Director of the Department of Conservation and Recreation, direct the State
 159 Treasurer to make Water Quality Improvement Grants in accordance with the guidelines established
 160 pursuant to § 10.1-2129. The Director of the Department of Environmental Quality shall enter into grant
 161 agreements with all facilities designated as significant dischargers or eligible nonsignificant dischargers
 162 that apply for grants *unless the Director determines that the use of nutrient credits in accordance with*
 163 *the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.) would be*
 164 *significantly more cost-effective than the installation of nutrient controls for the facility in question;*
 165 however, all such grant agreements shall contain provisions that payments thereunder are subject to the
 166 availability of funds. *Further, the eligible scope of work for which grants may be awarded shall be the*
 167 *alternative that optimizes cost efficiencies based on a total life-cycle cost analysis, unless the prospective*
 168 *grantee provides sufficient justification, as determined by the Director of the Department of*
 169 *Environmental Quality, for another alternative.*

170 C. Notwithstanding the priority provisions of § 10.1-2129, the Director of the Department of
 171 Environmental Quality shall not authorize the distribution of grants from the Fund for purposes other
 172 than financing the *reasonable* cost of design and installation of nutrient removal technology at publicly
 173 owned treatment works until such time as all tributary strategy plans are developed and implemented
 174 unless he finds that there exists in the Fund sufficient funds for substantial and continuing progress in
 175 implementation of the tributary strategy plans. In addition to the provisions of § 10.1-2130, all grant
 176 agreements related to nutrients shall include: (i) numerical technology-based effluent concentration
 177 limitations on nutrient discharges to state waters based upon the technology installed by the facility; (ii)
 178 enforceable provisions related to the maintenance of the numerical concentrations that will allow for
 179 exceedences of 0.8 mg/L for total nitrogen or no more than 10 percent, whichever is greater, for
 180 exceedences of 0.1 mg/L for total phosphorus or no more than 10%, and for exceedences caused by
 181 extraordinary conditions; and (iii) recognition of the authority of the Commonwealth to make the
 182 Virginia Water Facilities Revolving Fund (§ 62.1-224 et seq.) available to local governments to fund

183 their share of the cost of designing and installing nutrient removal technology based on financial need
 184 and subject to availability of revolving loan funds, priority ranking and revolving loan distribution
 185 criteria. If, pursuant to § 10.1-1187.6, the State Water Control Board approves an alternative compliance
 186 method to technology-based concentration limitations in Virginia Pollutant Discharge Elimination System
 187 permits, the concentration limitations of the grant agreement shall be suspended subject to the terms of
 188 such approval. The cost of the design and installation of nutrient removal technology at publicly owned
 189 treatment works meeting the nutrient reduction goal in an applicable tributary strategy plan or an
 190 applicable regulatory requirement and incurred prior to the execution of a grant agreement is eligible for
 191 reimbursement from the Fund provided the grant is made pursuant to an executed agreement consistent
 192 with the provisions of this chapter.

193 Subsequent to the implementation of the tributary strategy plans, the Director may authorize
 194 disbursements from the Fund for any water quality restoration, protection and improvements related to
 195 point source pollution that are clearly demonstrated as likely to achieve measurable and specific water
 196 quality improvements, including, but not limited to, cost effective technologies to reduce nutrient loads.
 197 Notwithstanding the previous provisions of this subsection, the Director may, at any time, authorize
 198 grants, including grants to institutions of higher education, for technical assistance related to nutrient
 199 reduction.

200 D. The grant percentage provided for financing the costs of the design and installation of nutrient
 201 removal technology at publicly owned treatment works shall be based upon the financial need of the
 202 community as determined by comparing the annual sewer charges expended within the service area to
 203 the reasonable sewer cost established for the community.

204 E. ~~Grants~~ *Subject to the criteria set forth in this section, grants shall be awarded in the following*
 205 manner:

206 1. In communities for which the ratio of annual sewer charges to reasonable sewer cost is less than
 207 0.30, the Director of the Department of Environmental Quality shall authorize grants in the amount of
 208 35 percent of the costs of the design and installation of nutrient removal technology;

209 2. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or
 210 greater than 0.30 and less than 0.50, the Director shall authorize grants in the amount of 45 percent of
 211 the costs of the design and installation of nutrient removal technology;

212 3. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or
 213 greater than 0.50 and less than 0.80, the Director shall authorize grants in the amount of 60 percent of
 214 the costs of design and installation of nutrient removal technology; and

215 4. In communities for which the ratio of annual sewer charges to reasonable sewer cost is equal to or
 216 greater than 0.80, the Director shall authorize grants in the amount of 75 percent of the costs of the
 217 design and installation of nutrient removal technology.

218 2. *§ 1. Virginia Water Quality Improvement Grants under Article 4 (§ 10.1-2128 et seq.) of Chapter*
 219 *21.1 of Title 10.1 of the Code of Virginia may be used to fund a portion of some or all of the*
 220 *acquisition, design, construction, installation, equipping, improvement, or renovation of nutrient removal*
 221 *technology for eligible nonsignificant dischargers as defined in § 10.1-2117 of the Code of Virginia and*
 222 *the following projects:*

223
 224 *Shenandoah - Potomac River Basin*
 225

226 FACILITY NAME	OWNER
227 <i>Fishersville Regional STP</i>	<i>Augusta County Service Authority</i>
228 <i>Luray STP</i>	<i>Town of Luray</i>
229 <i>Middle River Regional STP</i>	<i>Augusta County Service Authority</i>
230 <i>North River WWTF</i>	<i>Harrisonburg-Rockingham Regional</i>
231	<i>Sewer Authority</i>
232 <i>Stuarts Draft STP</i>	<i>Augusta County Service Authority</i>
233 <i>Waynesboro STP</i>	<i>City of Waynesboro</i>
234 <i>Weyers Cave STP</i>	<i>Augusta County Service Authority</i>
235 <i>Berryville STP</i>	<i>Town of Berryville</i>
236 <i>Front Royal STP</i>	<i>Town of Front Royal</i>
237 <i>Mount Jackson STP</i>	<i>Town of Mount Jackson</i>
238 <i>New Market STP</i>	<i>Town of New Market</i>
239 <i>North Fork Regional WWTP</i>	<i>Shenandoah County</i>
240 <i>Stoney Creek Sanitary</i>	
241 <i>District STP</i>	<i>Stoney Creek Sanitary District</i>
242 <i>Strasburg STP</i>	<i>Town of Strasburg</i>

243	Woodstock STP	Town of Woodstock
244	Opequon Water	
245	Reclamation Facility	Frederick-Winchester Service
246		Authority
247	Parkins Mill WWTF	Frederick-Winchester Service
248		Authority
249	Basham Simms WWTF	Town of Purcellville
250	Broad Run WRF	Loudoun County Sanitation Authority
251	Leesburg WPCF	Town of Leesburg
252	Round Hill WWTP	Town of Round Hill
253	PWCSA-H.L. Mooney WWTF	Prince William County Service
254		Authority
255	Upper Occoquan Sewage	
256	Authority WWTP	Upper Occoquan Sewage Authority
257	Vint Hill Farms Station WWF	Fauquier County Water and Sewer
258	Sanitation	Authority
259	Alexandria Sanitation	
260	Authority WWTP	Alexandria Sanitation Authority
261	Arlington Co. WPCF	Arlington County
262	Noman M. Cole, Jr. Pollution	
263	Control Facility	Fairfax County
264	Aquia WWTP	Stafford County
265	Colonial Beach STP	Town of Colonial Beach
266	Dahlgren Sanitary District WWTP	King George County Service
267		Authority
268	Fairview Beach STP	King George County Service
269		Authority
270	Purkins Corner WWTP	King George County Service
271		Authority
272	District of Columbia - Blue	
273	Plains STP (Virginia portion)	Loudoun County Sanitation Authority
274		and Fairfax County contract
275		for capacity
276		
277	Rappahannock River Basin	
278		
279	FACILITY NAME	OWNER
280	Culpeper WWTP	Town of Culpeper
281	Marshall WWTP	Town of Marshall
282	Mountain Run WWTP	Culpeper County
283	Orange STP	Town of Orange
284	Rapidan STP	Greene County
285	Remington WWTP	Fauquier County Water and
286		Sanitation Authority
287	Warrenton STP	Town of Warrenton
288	Wilderness WWTP	Rapidan Service Authority
289	FMC WWTF	Spotsylvania County
290	Fredericksburg WWTF	City of Fredericksburg
291	Little Falls Run WWTF	Stafford County
292	Massaponax WWTF	Spotsylvania County
293	Montross-Westmoreland WWTP	Montross-Westmoreland Sewer Authority
294	Oakland Park STP	King George County Service Authority
295	Tappahannock WWTP	Town of Tappahannock
296	HRSD-Urbanna WWTP	Hampton Roads Sanitation District
297	Warsaw STP	Town of Warsaw
298	Reedville Sanitary	

299	<i>District WWTP</i>	<i>Northumberland County</i>
300	<i>Kilmarnock WWTP</i>	<i>Town of Kilmarnock</i>
301		
302	<i>York River Basin</i>	
303		
304	<i>FACILITY NAME</i>	<i>OWNER</i>
305	<i>Caroline Co. Regional STP</i>	<i>Caroline County</i>
306	<i>Gordonsville STP</i>	<i>Rapidan Service Authority</i>
307	<i>Ashland WWTP</i>	<i>Hanover County</i>
308	<i>Doswell WWTP</i>	<i>Hanover County</i>
309	<i>HRSD-York River STP</i>	<i>Hampton Roads Sanitation District</i>
310	<i>Parham Landing WWTP</i>	<i>New Kent County</i>
311	<i>Totopotomoy WWTP</i>	<i>Hanover County</i>
312	<i>HRSD-West Point STP</i>	<i>Hampton Roads Sanitation District</i>
313	<i>HRSD-Mathews Courthouse STP</i>	<i>Hampton Roads Sanitation District</i>
314		
315	<i>James River Basin</i>	
316		
317	<i>FACILITY NAME</i>	<i>OWNER</i>
318	<i>Buena Vista STP</i>	<i>City of Buena Vista</i>
319	<i>Clifton Forge STP</i>	<i>Town of Clifton Forge</i>
320	<i>Covington STP</i>	<i>City of Covington</i>
321	<i>Lexington-Rockbridge</i>	
322	<i>Regional WQCF</i>	<i>Maury Service Authority</i>
323	<i>Alleghany Co.-Low Moor STP</i>	<i>Alleghany County</i>
324	<i>Alleghany Co.-Lower Jackson</i>	
325	<i>River WWTP</i>	<i>Alleghany County</i>
326	<i>Rutledge Creek WWTP</i>	<i>Town of Amherst</i>
327	<i>Lynchburg STP</i>	<i>City of Lynchburg</i>
328	<i>Moore's Creek Regional STP</i>	<i>Rivanna Water and Sewer Authority</i>
329	<i>Crewe WWTP</i>	<i>Town of Crewe</i>
330	<i>Farmville WWTP</i>	<i>Town of Farmville</i>
331	<i>Falling Creek WWTP</i>	<i>Chesterfield County</i>
332	<i>Henrico Co. WWTP</i>	<i>Henrico County</i>
333	<i>Hopewell Regional WWTF</i>	<i>City of Hopewell</i>
334	<i>Chesterfield Co.-Proctors</i>	
335	<i>Creek WWTP</i>	<i>Chesterfield County</i>
336	<i>Richmond WWTP</i>	<i>City of Richmond</i>
337	<i>South Central Wastewater</i>	<i>South Central Wastewater</i>
338	<i>Authority WWTF</i>	<i>Authority</i>
339	<i>Chickahominy WWTP</i>	<i>New Kent County</i>
340	<i>HRSD-Boat Harbor STP</i>	<i>Hampton Roads Sanitation District</i>
341	<i>HRSD-James River STP</i>	<i>Hampton Roads Sanitation District</i>
342	<i>HRSD-Williamsburg STP</i>	<i>Hampton Roads Sanitation District</i>
343	<i>HRSD-Nansemond STP</i>	<i>Hampton Roads Sanitation District</i>
344	<i>HRSD-Army Base STP</i>	<i>Hampton Roads Sanitation District</i>
345	<i>HRSD-Virginia Initiative</i>	
346	<i>Plant STP</i>	<i>Hampton Roads Sanitation District</i>
347	<i>HRSD-Chesapeake/Elizabeth STP</i>	<i>Hampton Roads Sanitation District</i>
348		
349	<i>Eastern Shore Basin</i>	
350		
351	<i>FACILITY NAME</i>	<i>OWNER</i>
352	<i>Cape Charles WWTP</i>	<i>Town of Cape Charles</i>
353	<i>Onancock WWTP</i>	<i>Town of Onancock</i>
354	<i>Tangier WWTP</i>	<i>Town of Tangier</i>
355	<i>§ 2. Such grants for nutrient removal technology shall be used solely for the purpose of funding the</i>	

356 acquisition, design, construction, installation, equipping, improvement, or renovation of nutrient removal
357 technology for eligible nonsignificant dischargers as defined in § 10.1-2117 of the Code of Virginia and
358 the publicly owned treatment works described above to implement the Commonwealth's Chesapeake Bay
359 Tributary Strategies and assist the owners in complying with nutrient discharge control regulations
360 adopted by the State Water Control Board. The General Assembly hereby finds and determines that such
361 projects benefit the Commonwealth and its regional and local governments and authorities by
362 preserving, restoring and enhancing the health and vitality of the Chesapeake Bay.

363 § 3. Grants that are funded for eligible nonsignificant dischargers as defined in § 10.1-2117 of the
364 Code of Virginia and the publicly owned treatment works described above shall not be used to
365 calculate, offset, or reduce the share of federal, state, or local revenues or funds otherwise available to
366 any regional or local government.

367 **3. That the Department of Environmental Quality shall identify and evaluate options to ensure the**
368 **efficient use of Virginia Water Quality Improvement Grants for nutrient removal technology for**
369 **eligible nonsignificant dischargers as defined in § 10.1-2117 of the Code of Virginia and other**
370 **treatment works and shall develop and issue written policies and guidelines governing the use of**
371 **any such grants. Such policies and guidelines shall provide rules, processes, and procedures for**
372 **enforcement of appropriate cost control measures for the use of grants for nutrient removal**
373 **technology. In developing and issuing such written policies and guidelines, the Department shall**
374 **work with representatives from local governments and the conservation community to evaluate the**
375 **optimal use of existing and potential cost control measures for eligible nonsignificant dischargers**
376 **and other treatment works set forth under this act including, but not limited to, the (i) evaluation**
377 **of eligible and appropriate costs for funding or reimbursement related to upgrades, additions,**
378 **replacements, or renovations of such treatment works, (ii) applicability of the Virginia Public**
379 **Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) to upgrades, additions, replacements,**
380 **or renovations of such treatment works, consistent with the provisions of the Virginia Public**
381 **Procurement Act, (iii) use of voluntary nutrient credit trading as an alternative to upgrades,**
382 **additions, replacements, or renovations of such treatment works, (iv) establishment or use of**
383 **defined usual and customary rates for funding of, or reimbursing claims related to, upgrades,**
384 **additions, replacements, or renovations of such treatment works, (v) optimization of a publicly**
385 **owned treatment work using total life-cycle cost evaluation, (vi) ability to limit or exclude funding**
386 **of, or reimbursements related to, upgrades, additions, replacements, or renovations of a publicly**
387 **owned treatment work based upon a comparison of (a) the costs to upgrade or build in regard to**
388 **such treatment work and (b) the purchase of nutrient credits as an alternative, and (vii) criteria to**
389 **be used by the Department in prioritizing grants for publicly owned treatment works, including**
390 **criteria based upon river-basin optimization plans. The development and issuance of the policies**
391 **and guidelines by the Department shall be exempt from the Administrative Process Act (§ 2.2-4000**
392 **et seq. of the Code of Virginia). The policies and guidelines shall be made publicly available no**
393 **later than April 1, 2008.**