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SENATE BILL NO. 771

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 31, 2007)

(Patron Prior to Substitute—Senator Chichester)

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 facilities and authorizing the Virginia Public Building Authority to issue bonds in an aggregate principal amount not to exceed \$250,000,000 for purposes of funding water quality improvement grants.

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

60 addition to those made pursuant to subsection A of § 10.1-2128, the Secretary of Natural Resources shall
61 distribute those moneys in the Fund provided from the 10 percent of the annual general fund revenue
62 collections that are in excess of the official estimates in the general appropriation act, and the 10 percent
63 of any unreserved general fund balance at the close of each fiscal year whose reappropriation is not
64 required in the general appropriation act, as follows:

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

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

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

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

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

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

121 C. *The provision of Water Quality Improvement Grants for the design and installation of nutrient*

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

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

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

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

C. Notwithstanding the priority provisions of § 10.1-2129, the Director of the Department of Environmental Quality shall not authorize the distribution of grants from the Fund for purposes other than financing the *reasonable* cost of design and installation of nutrient removal technology at publicly owned treatment works until such time as all tributary strategy plans are developed and implemented unless he finds that there exists in the Fund sufficient funds for substantial and continuing progress in implementation of the tributary strategy plans. In addition to the provisions of § 10.1-2130, all grant agreements related to nutrients shall include: (i) numerical technology-based effluent concentration limitations on nutrient discharges to state waters based upon the technology installed by the facility; (ii) enforceable provisions related to the maintenance of the numerical concentrations that will allow for exceedences of 0.8 mg/L for total nitrogen or no more than 10 percent, whichever is greater, for exceedences of 0.1 mg/L for total phosphorus or no more than 10%, and for exceedences caused by extraordinary conditions; and (iii) recognition of the authority of the Commonwealth to make the Virginia Water Facilities Revolving Fund (§ 62.1-224 et seq.) available to local governments to fund their share of the cost of designing and installing nutrient removal technology based on financial need and subject to availability of revolving loan funds, priority ranking and revolving loan distribution criteria. If, pursuant to § 10.1-1187.6, the State Water Control Board approves an alternative compliance method to technology-based concentration limitations in Virginia Pollutant Discharge Elimination System permits, the concentration limitations of the grant agreement shall be suspended subject to the terms of such approval. The cost of the design and installation of nutrient removal technology at publicly owned treatment works meeting the nutrient reduction goal in an applicable tributary strategy plan or an applicable regulatory requirement and incurred prior to the execution of a grant agreement is eligible for reimbursement from the Fund provided the grant is made pursuant to an executed agreement consistent with the provisions of this chapter.

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

D. The grant percentage provided for financing the costs of the design and installation of nutrient removal technology at publicly owned treatment works shall be based upon the financial need of the

community as determined by comparing the annual sewer charges expended within the service area to the reasonable sewer cost established for the community.

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

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

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

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

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

2. *§ 1. That pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264 of the Code of Virginia, the General Assembly hereby authorizes the Virginia Public Building Authority to finance through the issuance of its bonds as described in this act, without limitation except as provided in this act and together with other available funds, certain Virginia Water Quality Improvement Grants under Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia, such grants to be used exclusively to fund a portion of some or all of the acquisition, design, construction, installation, equipping, improvement, or renovation of nutrient removal technology for eligible non-significant dischargers as defined in § 10.1-2117 of the Code of Virginia and the following projects:*

Shenandoah - Potomac River Basin

FACILITY NAME	OWNER
ACSA-Fishersville STP	Augusta County Service Authority
Luray STP	Town of Luray
ACSA-Middle River Regional STP	Augusta County Service Authority
HRRSA-North River WWTF	Harrisonburg-Rockingham Regional Sewer Authority
ACSA-Stuarts Draft STP	Augusta County Service Authority
Waynesboro STP	City of Waynesboro
ACSA-Weyers Cave STP	Augusta County Service Authority
Berryville STP	Town of Berryville
Front Royal STP	Town of Front Royal
Mount Jackson STP	Town of Mount Jackson
New Market STP	Town of New Market
Shenandoah Co.-North Fork Regional WWTP	Shenandoah County
Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
Strasburg STP	Town of Strasburg
Woodstock STP	Town of Woodstock
FWSA-Opequon Water Reclamation Facility	Frederick-Winchester Service Authority
FWSA-Parkins Mill WWTF	Frederick-Winchester Service Authority
Purcellville-Basham Simms WWTF	Town of Purcellville
LCSA-Broad Run WRF	Loudoun County Service Authority
Leesburg WPCF	Town of Leesburg
Round Hill WWTP	Town of Round Hill
PWCSA-H.L. Mooney WWTF	Prince William County Service Authority
Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer Authority
Alexandria Sanitation	

242	Authority WWTP	Alexandria Sanitation Authority
243	Arlington Co. WPCF	Arlington County
244	Fairfax Co. - Noman-Cole Pollution	
245	Control Facility	Fairfax County
246	Stafford Co.-Aquia WWTP	Stafford County
247	Colonial Beach STP	Town of Colonial Beach
248	Dahlgren Sanitary District WWTP	King George County Service
249		Authority
250	Fairview Beach STP	King George County Service
251		Authority
252	Purkins Corner WWTP	King George County Service
253		Authority
254	District of Columbia - Blue	
255	Plains STP (Virginia portion)	Loudoun County Service Authority
256		and Fairfax County contract
257		for capacity
258		
259	Rappahannock River Basin	
260		
261	FACILITY NAME	OWNER
262	Culpeper WWTP	Town of Culpeper
263	Marshall WWTP	Town of Marshall
264	Mountain Run WWTP	Culpeper County
265	Orange STP	Town of Orange
266	Rapidan STP	Rapidan Service Authority
267	FCW&SA-Remington WWTP	Fauquier County Water and
268		Sewer Authority
269	Warrenton STP	Town of Warrenton
270	Wilderness Shores WWTP	Rapidan Service Authority
271	Spotsylvania Co.-FMC WWTF	Spotsylvania County
272	Fredericksburg WWTF	City of Fredericksburg
273	Stafford Co.-Little Falls Run WWTF	Stafford County
274	Spotsylvania Co.-Massaponax WWTF	Spotsylvania County
275	Montross-Westmoreland WWTP	Westmoreland County
276	Oakland Park STP	King George County Service
277		Authority
278	Tappahannock WWTP	Town of Tappahannock
279	Urbanna WWTP	Hampton Roads Sanitation District
280	Warsaw STP	Town of Warsaw
281	Reedville Sanitary District WWTP	Reedville Sanitary District
282	Kilmarnock WWTP	Town of Kilmarnock
283		
284	York River Basin	
285		
286	FACILITY NAME	OWNER
287	Caroline Co. Regional STP	Caroline County
288	Gordonsville STP	Rapidan Service Authority
289	Ashland WWTP	Hanover County
290	Doswell WWTP	Hanover County
291	HRSD-York River STP	Hampton Roads Sanitation District
292	Parham Landing WWTP	New Kent County
293	Totopotomoy WWTP	Hanover County
294	HRSD-West Point STP	Hampton Roads Sanitation District
295	HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
296		
297	James River Basin	

298		
299	FACILITY NAME	OWNER
300	Buena Vista STP	City of Buena Vista
301	Clifton Forge STP	Town of Clifton Forge
302	Covington STP	City of Covington
303	Lexington-Rockbridge Regional WQCF	Maury Service Authority
304	Alleghany Co.-Low Moor STP	Alleghany County
305	Alleghany Co.-Lower Jackson	
306	River WWTP	Alleghany County
307	Amherst-Rutledge Creek WWTP	Town of Amherst
308	Lynchburg STP	City of Lynchburg
309	RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
310	Crewe WWTP	Town of Crewe
311	Farmville WWTP	Town of Farmville
312	Chesterfield Co.-Falling	
313	Creek WWTP	Chesterfield County
314	Henrico Co. WWTP	Henrico County
315	Hopewell Regional WWTF	City of Hopewell
316	Chesterfield Co.-Proctors	
317	Creek WWTP	Chesterfield County
318	Richmond WWTP	City of Richmond
319	South Central Wastewater	South Central Wastewater
320	Authority WWTF	Authority
321	Chickahominy WWTP	New Kent County
322	HRSD-Boat Harbor STP	Hampton Roads Sanitation District
323	HRSD-James River STP	Hampton Roads Sanitation District
324	HRSD-Williamsburg STP	Hampton Roads Sanitation District
325	HRSD-Nansemond STP	Hampton Roads Sanitation District
326	HRSD-Army Base STP	Hampton Roads Sanitation District
327	HRSD-Virginia Initiative Plant STP	Hampton Roads Sanitation District
328	HRSD-Chesapeake/Elizabeth STP	Hampton Roads Sanitation District

329
330 Eastern Shore Basin

331		
332	FACILITY NAME	OWNER
333	Cape Charles WWTP	Town of Cape Charles
334	Onancock WWTP	Town of Onancock
335	Tangier Island WWTP	Town of Tangier

336 § 2. Such grants shall be used solely for the purpose of funding the acquisition, design, construction,
337 installation, equipping, improvement, or renovation of nutrient removal technology for eligible
338 non-significant dischargers as defined in § 10.1-2117 of the Code of Virginia and the publicly owned
339 treatment works described above to implement the Commonwealth's Chesapeake Bay Tributary
340 Strategies and assist the owners in complying with nutrient discharge control regulations adopted by the
341 State Water Control Board. The General Assembly hereby finds and determines that each such project
342 benefits the Commonwealth and its regional and local governments and authorities by preserving,
343 restoring and enhancing the health and vitality of the Chesapeake Bay.

344 § 3. Grants that are funded pursuant to the provisions of this act shall not be used to calculate,
345 offset, or reduce the share of federal, state, or local revenues or funds otherwise available to any
346 regional or local government.

347 § 4. The Virginia Public Building Authority is authorized to take any and all necessary, proper or
348 convenient steps and to exercise any and all powers granted to it by law to carry out the undertaking
349 and financing contemplated by the provisions of this act, including the power to finance grants to fund
350 a portion of the costs of any or all of the projects set forth by the issuance of revenue bonds from time
351 to time in an aggregate principal amount not to exceed \$250,000,000, plus amounts needed to fund
352 issuance costs, reserve funds, original issue discount and other financing expenses. The Virginia Public
353 Building Authority shall not issue any such bonds in a current fiscal year if the actual general fund
354 revenue collections for the most recently ended fiscal year exceeded the official estimates for such
355 revenue collections as set forth in the general appropriation act in effect at the end of the most recently

ended fiscal year.

§ 5. The net proceeds of Virginia Public Building Authority bonds shall finance Virginia Water Quality Improvement Grants to fund or reimburse approved capital costs for each such project as and to the extent determined by the Department of Environmental Quality pursuant to the provisions of this act and of Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia, including but not limited to the qualification of projects for Virginia Water Quality Improvement Grants as set forth in §§ 10.1-2129, 10.1-2130, and 10.1-2131 and written guidelines developed by the Secretary of Natural Resources in accordance with § 10.1-2129. Bond proceeds may not be used to pay debt service on obligations of regional or local governments or authorities. A separate account shall be maintained for the grants under this act and for bonds issued to finance such grants. Upon certification to the Authority by the Department of Environmental Quality that a project qualifies for a grant under the provisions of this act and the provisions of Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia and of the proposed amount and purpose of such grant, the Authority shall cause the disbursement of bond proceeds to fund such grant, but only to the extent of available funds therefor.

§ 6. The proceeds of such bonds are hereby appropriated for disbursement from the state treasury pursuant to Article X, Section 7 of the Constitution of Virginia, and § 2.2-1819 of the Code of Virginia. Grants funded with proceeds of the bonds will be deposited in a separate account in the Virginia Water Quality Improvement Fund, pursuant to § 10.1-2128 of the Code of Virginia, which authorizes such Fund to "consist of such other sums as may be made available to it from any other source, public or private." The general conditions and general provisions of the general appropriation act enacted pursuant to Chapter 15 (§ 2.2-1500 et seq.) of Title 2.2 of the Code of Virginia, in effect from time to time, and all of the terms and conditions contained therein shall apply to the capital projects listed in this act.

3. That the Department of Environmental Quality shall identify and evaluate options to ensure the efficient use of the bond proceeds pursuant to this act and shall develop and issue written policies and guidelines governing the use of the bond proceeds. Such policies and guidelines shall provide rules, processes, and procedures for enforcement of appropriate cost control measures for the use of the bond proceeds. In developing and issuing such written policies and guidelines, the Department shall work with representatives from local governments and the conservation community to evaluate the optimal use of existing and potential cost control measures for the publicly owned treatment works set forth under this act including, but not limited to, the (i) evaluation of eligible and appropriate costs for funding or reimbursement related to upgrades, additions, replacements, or renovations of such treatment works, (ii) applicability of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) to upgrades, additions, replacements, or renovations of such treatment works, consistent with the provisions of the Virginia Public Procurement Act, (iii) use of voluntary nutrient credit trading as an alternative to upgrades, additions, replacements, or renovations of such treatment works, (iv) establishment or use of defined usual and customary rates for funding of, or reimbursing claims related to, upgrades, additions, replacements, or renovations of such treatment works, (v) optimization of a publicly owned treatment work using total life-cycle cost evaluation, (vi) ability to limit or exclude funding of, or reimbursements related to, upgrades, additions, replacements, or renovations of a publicly owned treatment work based upon a comparison of (a) the costs to upgrade or build in regard to such treatment work and (b) the purchase of nutrient credits as an alternative, and (vii) criteria to be used by the Department in prioritizing grants for publicly owned treatment works, including criteria based upon river-basin optimization plans. The development and issuance of the policies and guidelines by the Department shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The policies and guidelines shall be made publicly available no later than April 1, 2008.

4. That all bonds issued heretofore by the Virginia Public Building Authority to provide funds to pay for all or any portion of the cost of one or more projects or portion or portions thereof are hereby validated, ratified, approved, and confirmed.

5. That the first issuance of bonds authorized in this act shall be contingent upon the appropriation and deposit of the \$200,000,000 from the general fund as specified in Item 364 B. 1. of Chapter 3 of the 2006 Acts of Assembly, Special Session 1.

6. That no bonds authorized in this act shall be issued for the purposes specified in this act prior to July 1, 2008.

7. That if any clause, sentence, paragraph, section, or part of this act or the application thereof to any person, entity, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect the validity of the remainder hereof but shall be confined to the clause, sentence, paragraph, section, or part hereof directly involved in the controversy in which

417 such judgment shall have been rendered, and to this end the provisions of this act are severable.