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SENATE BILL NO. 771

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 24, 2007)

(Patron Prior to Substitute—Senator Chichester)

A BILL to amend the Code of Virginia by adding a section numbered 10.1-1186.01, relating to reimbursement to localities of funds for upgrades of publicly owned treatment works and authorizing the use of proceeds from Virginia Public Building Authority bonds to fund water quality improvement grants.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1186.01 as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, or as eligible nonsignificant dischargers as defined in § 10.1-2117.

B. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E and eligible nonsignificant dischargers shall be made as follows: (i) the first phase of a grant shall be disbursed upon written certification that 25 percent of the local share of the cost of nutrient removal technology for the project has been expended; (ii) the second phase upon written certification that 50 percent of the local share of the cost of nutrient removal technology for the project has been expended; (iii) the third phase upon written certification that 75 percent of the local share of the cost of the nutrient removal technology for the project has been expended; and (iv) the final phase upon written certification that 100 percent of the local share of the cost of the construction, expansion, or upgrade of nutrient removal technology for the project has been expended. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

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

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from 50 percent completion of construction to final completion of construction.

C. The General Assembly shall have the sole authority to determine whether disbursement will be made pursuant to subdivision B 1, B 2, or B 3, or a combination thereof. A disbursement shall only be made pursuant to subdivision B 3 upon a determination by the Department of Environmental Quality in the current fiscal year that project grant reimbursements for the year will exceed the available funds in the Water Quality Improvement Fund.

D. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I.

E. The disbursement of grants to finance the costs of design and installation of nutrient removal technology at the following 89 publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. However, in no case shall any publicly owned treatment works receive a grant of less than 35 percent of the costs of the design and installation of nutrient removal technology.

FACILITY NAME

OWNER

Shenandoah - Potomac River Basin

ACSA-Fishersville STP

Augusta County Service Authority

Luray STP

Town of Luray

SENATE SUBSTITUTE

SB771S2

59	ACSA-Middle River Regional STP	Augusta County Service Authority
60	HRRSA-North River WWTF	Harrisonburg-Rockingham Regional
61		Sewer Authority
62	ACSA-Stuarts Draft STP	Augusta County Service Authority
63	Waynesboro STP	City of Waynesboro
64	ACSA-Weyers Cave STP	Augusta County Service Authority
65	Berryville STP	Town of Berryville
66	Front Royal STP	Town of Front Royal
67	Mount Jackson STP	Town of Mount Jackson
68	New Market STP	Town of New Market
69	Shenandoah Co.-North	
70	Fork Regional WWTP	Shenandoah County
71	Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
72	Strasburg STP	Town of Strasburg
73	Woodstock STP	Town of Woodstock
74	FWSA-Opequon Water	
75	Reclamation Facility	Frederick-Winchester Service
76		Authority
77	FWSA-Parkins Mill WWTF	Frederick-Winchester Service
78		Authority
79	Purcellville-Basham Simms WWTF	Town of Purcellville
80	LCSA-Broad Run WRF	Loudoun County Service Authority
81	Leesburg WPCF	Town of Leesburg
82	Round Hill WWTP	Town of Round Hill
83	PWCSA-H.L. Mooney WWTF	Prince William County Service
84		Authority
85	Upper Occoquan Sewage	
86	Authority WWTP	Upper Occoquan Sewage Authority
87	FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer
88		Authority
89	Alexandria Sanitation	Alexandria Sanitation Authority
90	Authority WWTP	
91	Arlington Co. WPCF	Arlington County
92	Fairfax Co. - Noman-Cole Pollution	
93	Control Facility	Fairfax County
94	Stafford Co.-Aquia WWTP	Stafford County
95	Colonial Beach STP	Town of Colonial Beach
96	Dahlgren Sanitary District WWTP	King George County Service
97		Authority
98	Fairview Beach STP	King George County Service
99		Authority
100	Purkins Corner WWTP	King George County Service
101		Authority
102	District of Columbia - Blue	
103	Plains STP (Virginia portion)	Loudoun County Service Authority
104		and Fairfax County contract
105		for capacity
106		
107	Rappahannock River Basin	
108		
109	Culpeper WWTP	Town of Culpeper
110	Marshall WWTP	Town of Marshall
111	Mountain Run WWTP	Culpeper County
112	Orange STP	Town of Orange
113	Rapidan STP	Rapidan Service Authority
114	FCW&SA-Remington WWTP	Fauquier County Water and
115		Sewer Authority

116	Warrenton STP	Town of Warrenton
117	Wilderness Shores WWTP	Rapidan Service Authority
118	Spotsylvania Co.-FMC WWTF	Spotsylvania County
119	Fredericksburg WWTF	City of Fredericksburg
120	Stafford Co.-Little Falls Run WWTF	Stafford County
121	Spotsylvania Co.-Massaponax WWTF	Spotsylvania County
122	Montross-Westmoreland WWTP	Westmoreland County
123	Oakland Park STP	King George County Service
124		Authority
125	Tappahannock WWTP	Town of Tappahannock
126	Urbanna WWTP	Hampton Roads Sanitation District
127	Warsaw STP	Town of Warsaw
128	Reedville Sanitary District WWTP	Reedville Sanitary District
129	Kilmarnock WWTP	Town of Kilmarnock
130		
131	York River Basin	
132		
133	Caroline Co. Regional STP	Caroline County
134	Gordonsville STP	Rapidan Service Authority
135	Ashland WWTP	Hanover County
136	Doswell WWTP	Hanover County
137	HRSD-York River STP	Hampton Roads Sanitation District
138	Parham Landing WWTP	New Kent County
139	Totopotomoy WWTP	Hanover County
140	HRSD-West Point STP	Hampton Roads Sanitation District
141	HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
142		
143	James River Basin	
144		
145	Buena Vista STP	City of Buena Vista
146	Clifton Forge STP	Town of Clifton Forge
147	Covington STP	City of Covington
148	Lexington-Rockbridge Regional WQCF	Maury Service Authority
149	Alleghany Co.-Low Moor STP	Alleghany County
150	Alleghany Co.-Lower Jackson	
151	River WWTP	Alleghany County
152	Amherst-Rutledge Creek WWTP	Town of Amherst
153	Lynchburg STP	City of Lynchburg
154	RWSA-Moores Creek Regional STP	Rivanna Water and Sewer Authority
155	Crewe WWTP	Town of Crewe
156	Farmville WWTP	Town of Farmville
157	Chesterfield Co.-Falling	Chesterfield County
158	Creek WWTP	
159	Henrico Co. WWTP	Henrico County
160	Hopewell Regional WWTF	City of Hopewell
161	Chesterfield Co.-Proctors	
162	Creek WWTP	Chesterfield County
163	Richmond WWTP	City of Richmond
164	South Central Wastewater	South Central Wastewater
165		Authority
166	Authority WWTF	
167	Authority WWTF	
168	Chickahominy WWTP	New Kent County
169	HRSD-Boat Harbor STP	Hampton Roads Sanitation District
170	HRSD-James River STP	Hampton Roads Sanitation District
171	HRSD-Williamsburg STP	Hampton Roads Sanitation District

172	HRSD-Nansemond STP	Hampton Roads Sanitation District
173	HRSD-Army Base STP	Hampton Roads Sanitation District
174	HRSD-Virginia Initiative Plant STP	Hampton Roads Sanitation District
175	HRSD-Chesapeake/Elizabeth STP	Hampton Roads Sanitation District
176		
177	Eastern Shore Basin	
178		
179	Cape Charles WWTP	Town of Cape Charles
180	Onancock WWTP	Town of Onancock
181	Tangier Island WWTP	Town of Tangier

182 *F. To the extent that any publicly owned treatment works receives less than the grant specified*
 183 *pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the*
 184 *Water Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment*
 185 *the funding of those projects for which grants have been prorated. Any additional reimbursements to*
 186 *these prorated projects shall not exceed the total reimbursement amount due pursuant to the formula*
 187 *established in subsection E of § 10.1-2131.*

188 *G. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department of*
 189 *Environmental Quality shall not be required to enter into a grant agreement with a facility designated*
 190 *as a significant discharger or eligible nonsignificant discharger if the Director determines that the use*
 191 *of nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange*
 192 *Program (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of*
 193 *nutrient controls for the facility in question.*

194 **2. That the Department of Environmental Quality shall identify and evaluate options to ensure the**
 195 **efficient use of any grants authorized by the Water Quality Improvement Act (§ 10.1-2117 et seq.**
 196 **of the Code of Virginia). Any grant issued after October 1, 2007, shall include policies and**
 197 **guidelines governing the use of such grants that include the enforcement of appropriate cost**
 198 **control measures for the use of the grants. The Department shall work with representatives from**
 199 **local governments and the conservation community to evaluate the optimal use of existing and**
 200 **potential cost control measures, including but not limited to (i) evaluation of eligible and**
 201 **appropriate costs, (ii) applicability of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of**
 202 **the Code of Virginia), (iii) voluntary nutrient credit trading, (iv) basing grant amounts on facility**
 203 **optimization using full life-cycle cost evaluation, (v) the ability to limit or exclude reimbursements**
 204 **based upon a comparison of costs to upgrade or build versus the purchase of credits, and (vi) the**
 205 **ability to prioritize grant agreements based upon the river-basin optimization plans. Such policies**
 206 **and procedures shall be developed no later than October 1, 2007.**

207 **3. That the Virginia Public Building Authority is authorized to fund certain Water Quality**
 208 **Improvement Grants through the issuance of bonds as follows:**

209 *§ 1. Pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264 of the Code of Virginia, the Virginia Public*
 210 *Building Authority is hereby authorized to finance certain Virginia Water Quality Improvement Grants*
 211 *pursuant to Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia,*
 212 *through the issuance of bonds, without limitation and together with other available funds. Such grants*
 213 *shall be used exclusively to fund a portion of some or all of the acquisition, design, construction,*
 214 *installation, equipping, improvement, or renovation of nutrient removal technology for significant*
 215 *dischargers contained in § 2 of this enactment and eligible nonsignificant dischargers as defined in*
 216 *§ 10.1-2117 of the Code of Virginia.*

217 *§ 2. The Virginia Public Building Authority is authorized to take any and all necessary, proper, or*
 218 *convenient steps and to exercise any and all powers granted to it by law to carry out the undertaking*
 219 *and financing contemplated by the provisions of this enactment, including the power to finance grants to*
 220 *fund a portion of the costs of any or all of the projects set forth in this act by the issuance of revenue*
 221 *bonds from time to time in an aggregate principal amount not to exceed \$250,000,000, plus amounts*
 222 *needed to fund issuance costs, reserve funds, original issue discount, and other financing expenses.*

223 *§ 3. The net proceeds of Virginia Public Building Authority bonds shall finance Virginia Water*
 224 *Quality Improvement Grants to fund or reimburse approved capital costs for each such project as and*
 225 *to the extent determined by the Department of Environmental Quality pursuant to the provisions of this*
 226 *enactment and of Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia,*
 227 *including but not limited to the qualifications of projects for Virginia Water Quality Improvement Grants*
 228 *as set forth in §§ 10.1-2129, 10.1-2130, and 10.1-2131 and in written guidelines developed by the*
 229 *Secretary of Natural Resources in accordance with § 10.1-2129. Bond proceeds may not be used to pay*
 230 *debt service on obligations of regional or local governments or authorities. A separate account shall be*
 231 *maintained for the grants under this enactment and for bonds issued to finance such grants. Upon*
 232 *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 therefore.

§ 4. 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 a general appropriation act enacted by the General Assembly, 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.

§ 5. No bonds authorized pursuant to this enactment shall be issued prior to July 1, 2008.

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

5. 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 thereof are hereby validated, ratified, approved, and confirmed.