

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: HB1831

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

2. Patron: Scott, E.T.

3. Committee: Passed Both Houses

4. Title: Fertilizer; regulation of application and labeling.

5. Summary: This bill adds public sector applicators as regulated agents by the Board of Agriculture and Consumer Services (the Board) and requires that all persons subject to regulations who apply any regulated product to nonagricultural lands become trained in nutrient management practices and comply with new reporting requirements for the application of lawn fertilizer and lawn maintenance fertilizer established by this bill. To assist with these new reporting requirements, the Board is to provide for optional reporting by electronic methods and is to make available to the public the total acreage or square footage by zip code.

According to the bill, localities may only regulate the use, application, storage or distribution of fertilizer by ordinance when provided for in the requirements of the Chesapeake Bay Preservation Act, the Erosion and Sediment Control Law, the Stormwater Management Act, or other nonpoint source regulations adopted by the Department of Conservation and Recreation (DCR) or the Soil and Water Conservation Board. Contractor-applicators who are in compliance with regulations adopted by the Board are not subject to local ordinances governing the use or application of fertilizer or lawn maintenance fertilizer, and golf courses with an approved nutrient-management plan are not subject to local ordinances governing the use or application of fertilizer.

According to this bill, the sale, distribution or use of lawn maintenance fertilizer containing phosphorus and deicing agents containing forms of nitrogen or phosphorus is prohibited beginning on January 1, 2013. The bill requires the Virginia Department of Agriculture and Consumer Services (VDACS) to develop consumer information and recommended best practices for the application of lawn fertilizer, including a cautionary label on application and use listed on all packages of lawn fertilizer.

This bill requires DCR to provide a voluntary nutrient management plan program to assist owners and operators of agricultural land in preparing nutrient management plans for their own property. DCR is to establish a stakeholder group to assist in the development of this program that: (i) allows owners who are not required to have a certified nutrient management plan to prepare their own; (ii) includes a tiered approach for lands of different sizes,

agricultural production, and nutrient applications; (iii) considers similar online programs; (iv) addresses how the plans can be verified and receive credit in the Chesapeake Bay Watershed Model; (v) establishes an effective date for implementation; and (vi) includes any other related issues.

In addition, the bill requires DCR to provide technical assistance and training on the development and implementation of nutrient management plans which are required for golf courses prior to July 1, 2017. DCR is also to establish, a cost-share program specific to golf courses prior to July 1, 2015. Any golf course owner found to be in violation of the provisions of this bill shall be assessed a \$250 penalty; monies collected pursuant to this penalty shall be deposited into the Nutrient Management Training and Certification Fund. Golf courses in compliance with the provisions of this bill shall not be subject to local ordinances governing the use or application of fertilizer.

Finally, this bill contains an enactment clause that requires VDACS to (i) provide a report concerning the use of slowly-available nitrogen in fertilizer (lawn and lawn maintenance) material to the legislative committees with subject matter jurisdiction over agriculture and the environment, and (ii) consult with DCR and the Chesapeake Bay Commission concerning the development and content of the report.

6. Budget Amendment Necessary: No, see item 8, below (additional funding is not needed until FY 2013).

5. Fiscal Impact Estimates: Final.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2011	\$0	0.00	n/a
2012	\$0	0.00	n/a
2013	\$275,000	0.00	General
2014	\$227,000	0.00	General
2015	\$227,000	0.00	General
2016	\$227,000	0.00	General
2017	\$227,000	0.00	General

8. Fiscal Implications: This bill places additional responsibilities on VDACS regarding the regulation of fertilizer and on DCR regarding the development, implementation, and enforcement of nutrient management plans.

Regulation of fertilizer (VDACS):

VDACS anticipates that any fiscal impact resulting from this bill can be absorbed within current resources.

- *Cost for training state employees, \$0:* The bill requires that all state employees that apply nutrients take training and then provide an annual acreage report. It is anticipated that any costs resulting from this can be absorbed within agencies' current resources.

Development, implementation and enforcement of nutrient management plans:

DCR is required by the bill to develop a voluntary nutrient management plan program. It is not known how many people would participate in the program, and the bill requires the stakeholder group to determine the effective date for implementation. For the purposes of this fiscal impact statement, it is assumed that costs start in FY 2013.

- *Additional staff, \$80,000 per year:* At a minimum, DCR anticipates that \$80,000 will be needed annually to support a position to implement the provisions of this bill related to the development and offering of a voluntary nutrient management plan program. The agency can utilize an existing position so the agency's position level would not need to be increased.
- *Technology costs, \$75,000 the first year and \$27,000 per year thereafter:* Initial one-time expenses from the development of software for the program is estimated at \$175,000. DCR already has a Productivity Incentive Grant in the amount of \$100,000 that could be applied to this project, leaving a need for \$75,000. Ongoing expenses are estimated to be approximately \$27,000 annually. These ongoing costs are associated with hosting the application on Virginia Information Technologies Agency (VITA) servers, software maintenance, edits, and improvements.

Additionally, DCR is required to provide training and technical assistance to golf courses, to establish a cost-share program specific to golf courses prior to July 1, 2015, and to approve nutrient management plans for golf courses within 30 days of submission. These plans must then be reviewed by DCR every five years thereafter.

- *Staffing Costs, \$50,000 annually starting in FY 2013:* According to DCR, the Virginia Turfgrass Council is aware of over 350 golf courses in Virginia. Dividing the workload associated with developing plans for all 350 courses over the five-year period from 2012 through 2017 (when all courses are required to have a plan submitted) would allow the development of plans for approximately 70 courses per year. If DCR is able to divide the workload as such, the agency anticipates being able to utilize an existing position. This position would be responsible for the ongoing technical assistance and training, development and management of the cost-share program, and the auditing of the plans for compliance. However, the agency does anticipate needing \$50,000 to provide fiscal support for a portion of this position. This support funding would be needed starting in FY 2013.
- *Cost-share program costs, \$70,000 annually starting in FY 2013:* Assuming that 20 percent of golf courses develop plans beginning in FY 2013, and assuming \$20 per acre

with a 50 percent cost share (\$10 provided by the state, \$10 paid for by the golf course), the annual cost to the state would be \$70,000 from FY 2013 through FY 2017. If the cost-share program is required for plan renewal, then the \$70,000 annual cost would continue indefinitely. It is not known whether the cost-share monies provided by the state are to come from existing agricultural cost-share programs, or whether new funding is required. This statement assumes that new monies would need to be provided starting in FY 2013.

- This bill creates a penalty of \$250 for all golf courses found to be in violation of the provisions of this bill. It is not known how many penalties will result; but any penalties are to be deposited into the Nutrient Management Training and Certification Fund within DCR. These monies are to be used solely for the payment of expenses of operating the nutrient management training and certification program.

9. Specific Agency or Political Subdivisions Affected: Department of Agriculture and Consumer Services, Department of Conservation and Recreation, the Chesapeake Bay Commission, any state agencies, municipal corporations, or governmental agencies who apply any regulated product to nonagricultural lands.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to the enrolled version of SB1055.

Date: February 24, 2011

c: Secretary of Agriculture and Forestry
Secretary of Natural Resources