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<div align="right">**S E N A T E S U B S T I T U T E**</div>

1 **SENATE BILL NO. 292**
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
3 (Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
4 on January 28, 2016)
5 (Patron Prior to Substitute—Senator Hanger)
6 *A BILL to amend the Code of Virginia by adding a section numbered 62.1-44.19:21.1, relating to*
7 *sediment reduction credits for MS4s.*
8   **Be it enacted by the General Assembly of Virginia:**
9 **1. That the Code of Virginia is amended by adding a section numbered 62.1-44.19:21.1 as follows:**
10   *§ 62.1-44.19:21.1. Sediment credit use by regulated MS4s.*
11   *A. Subject to the conditions and limitations of subsections B, C, and D, an MS4 permittee may*
12 *acquire and use sediment credits for purposes of compliance with any waste load allocations established*
13 *by total maximum daily loads for the Chesapeake Bay or its tidal tributaries applied in an MS4 permit*
14 *issued pursuant to § 62.1-44.15:25, where such credit use is part of an integrated compliance plan for*
15 *the MS4 permittee to address such nutrient and sediment total maximum daily loads.*
16   *B. Such method of compliance may be approved by the Department following review of an integrated*
17 *compliance plan submitted by the permittee that includes the use of sediment credits. The permittee may*
18 *use such credits for compliance purposes only if (i) the credits are generated and applied for purposes*
19 *of compliance for the same calendar year; (ii) the credits are acquired no later than June 1 immediately*
20 *following the calendar year to which the credits are applied; (iii) no later than June 1 immediately*
21 *following the calendar year to which credits are applied, the permittee certifies on a form supplied by*
22 *the Department that he has acquired sufficient credits to satisfy his compliance obligations; (iv) the*
23 *credits are generated in the same tributary; (v) the sediment credits are not associated with phosphorus*
24 *credits used for compliance with stormwater nonpoint nutrient runoff water quality criteria established*
25 *pursuant to § 62.1-44.15:28; and (vi) the credits are derived from (a) implementation of best*
26 *management practices in a defined area outside of an MS4 service area, in which case the necessary*
27 *baseline sediment reduction for such defined area shall be achieved prior to the permittee's use of*
28 *additional reductions as credit or (b) a point source waste load allocation established by the*
29 *Chesapeake Bay total maximum daily load, in which case the credit is the difference between the waste*
30 *load allocation specified as an annual mass load and any lower monitored annual mass load that is*
31 *discharged as certified on a form supplied by the Department.*
32   *C. This section shall not be construed to limit or otherwise affect the authority of the Board to*
33 *establish and enforce more stringent water quality-based effluent limitations in permits where those*
34 *limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant*
35 *to this article shall not affect any requirement to comply with such local water quality-based limitations.*
36   *D. The Board may adopt regulations for the purpose of establishing procedures for the certification*
37 *of nonpoint source sediment credits used pursuant to subsection B. The Board's administration of this*
38 *section and its adoption of any such regulations shall be consistent wherever appropriate with the*
39 *standards and procedures established pursuant to § 62.1-44.19:20 for certification of nonpoint source*
40 *nutrient credits, including, without limitation, the opportunity for public notification, the retirement of*
41 *credits, sediment baseline attainment as a condition on generation and use of nonpoint source sediment*
42 *credits, financial assurance requirements, and requirements for inspection or auditing by the*
43 *Department.*
44   *E. For the purposes of this section, "sediment credit" means a sediment or total suspended solids*
45 *reduction that is expressed in pounds delivered to tidal waters within the Chesapeake Bay Watershed.*