

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB771

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Jones, S.C.

3. Committee: Appropriations

4. Title: Potomac Aquifer recharge monitoring; advisory board; laboratory established; SWIFT Project.

5. Summary: Creates an advisory board and a laboratory to monitor the effects of the Sustainable Water Infrastructure for Tomorrow (SWIFT) Project being undertaken by the Hampton Roads Sanitation District (HRSD).

The bill creates the Potomac Aquifer Recharge Monitoring Laboratory (the Laboratory) at Old Dominion University (ODU), placing it under the direction of an ODU faculty member and the co-direction of a faculty member at Virginia Tech. The bill provides that the Laboratory shall monitor the impact of the SWIFT Project on the Potomac Aquifer, manage testing data, and conduct water sampling and analysis.

The bill also establishes an eight-member advisory board called the Potomac Aquifer Recharge Oversight Committee (the Committee), directing it to ensure that the SWIFT Project is monitored independently. The bill provides that the Committee shall consist of the State Health Commissioner, the Director of the Department of Environmental Quality (DEQ), the Executive Director of the Hampton Roads Planning District Commission, the two Co-Directors of the Laboratory, the Director of the Occoquan Watershed Monitoring Laboratory, and two Virginia citizens appointed by the Governor. The bill also provides for two nonvoting members. The Committee is required by the bill to meet at least quarterly during the initial three years of its existence. The bill also authorizes the Committee to appoint a science and technical advisory council and directs the Committee to request funding from HRSD for the first three years of monitoring of the recharge of the aquifer.

The bill authorizes both the Commissioner of the Virginia Department of Health (VDH) and the State Water Control Board to issue emergency orders to halt injection or make any change to any facility of the SWIFT Project.

6. Budget Amendment Necessary: No. See Item 8 below.

7. Fiscal Impact Estimates: Preliminary. See Item 8.

8. Fiscal Implications: The provisions of the bill contain an enactment clause that can be interpreted such that the Committee can request funding sufficient to conduct its activities,

including the monitoring of the recharge of the Potomac Aquifer. The Virginia Department of Health (VDH) maintains that the committee is only charged with ensuring the monitoring is done independently and would require additional positions to independently assess the data. The agency believes they have a duty to independently assess the data and cannot wait for the Committee to determine if there is an imminent and substantial danger to the environment, public health, or a public water supply. Under this interpretation, in order to meet the provisions of the bill, VDH would need one additional Technical Service Engineer, with a total compensation of \$131,600 per year. The agency has indicated that all current resources available to meet the provisions of the bill are fully utilized.

It is anticipated that any fiscal impact on DEQ as a result of this bill can be absorbed within existing resources in the agency. Additionally, this bill will not have a fiscal impact on ODU or Virginia Tech for at least the first three years after it goes into effect. Potential fiscal impact to any of the aforementioned agencies after this period depends on the Committee's plan for funding, which is to be developed no later than July 1, 2020 as directed by this measure.

9. Specific Agency or Political Subdivisions Affected: Department of Environmental Quality, Old Dominion University, Virginia Tech, Department of Health, Hampton Roads Sanitation District, Hampton Roads Planning District Commission.

10. Technical Amendment Necessary: None.

11. Other Comments: This bill does not specify data sharing mechanisms between the Committee, the Laboratory, DEQ, and VDH, nor does it specifically address the authority of DEQ and VDH to issue emergency orders related to the SWIFT project.