

Commission on Local Government

Estimate of Local Fiscal Impact

2021 General Assembly Session

Bill: SB1210

Special Session:

Patron: Petersen

Date: 1/19/2021

In accordance with the provisions of §30-19.03 of the Code of Virginia, the staff of the Commission on Local Government offers the following analysis of the above-referenced legislation:

Bill Summary:

Environmental permit fees. Directs the Virginia Waste Management Board to adopt regulations to collect from any person operating certain facilities permitted for the disposal, storage, or treatment of nonhazardous solid waste such annual fees as are necessary to provide funding for the total direct costs of the nonhazardous solid waste management program when aggregated and combined with other existing fees. The bill also directs the State Water Control Board to adopt regulations specifying permit maintenance fees that each permitted facility shall pay to the Board for certain water quality or withdrawal permits. The bill requires the fee amounts to be set at an amount that is necessary to collect no less than 40 percent and no greater than 50 percent of the direct costs required for the administration, compliance, and enforcement of such permits. The bill contains enactment clauses that (i) direct the relevant Boards to adopt such regulations by January 1, 2022, and (ii) provide for the expiration of existing provisions for similar permit fees contingent upon the adoption of such regulations.

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### Executive Summary:

Localities have evaluated a negative fiscal impact ranging from \$0.00 - \$900,000.00. Localities that responded with a cost, noted that the exact cost would be difficult to quantify because the bill delegates other boards to determine fee structures. Accordingly, those localities that provided a cost did so by providing ballpark estimates. Of those localities that responded with no cost, noted that the cost of the bill is indeterminate, and they are part of a regional waste authority, or they do not operate a landfill. In the circumstance where some of these matters are addressed regionally, it is expected that the regional cost would be passed down to the individual localities, which would then be passed down to individual customers.

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### Local Analysis:

**Locality:** City of Alexandria..

**Estimated Fiscal Impact:** \$900,000.00

The City of Alexandria's rough fiscal impact estimate is for approximately less than \$1M. It is difficult at this time to estimate anything other than a ballpark range as the bill would impact other entities who would pass this cost increase down.

Portions of this bill would impact the City differently. It is noted that within the language there is storm water / waters of the US language that is tucked into the Bill, which proposes a fee structure for federal navigation channels or other US Army Corps of Engineers dredging projects. This fee will have a direct effect on the stormwater channel maintenance work that the City performs on a number of the US Army Core designated channels. It is anticipated to add approximately 2% of the cost (variable fee structure based on acreage or type of project) to a project. This cost of business will have to be absorbed within the Stormwater Utility fund.

The proposed language also allows maintenance fees to be collected by the State Water Control Board, between 40 to 50 percent of the direct costs in administration, compliance, and enforcement for drinking water. The impact will not be with the City fee structure, but with Virginia American Water fee schedule, and will be passed on to all the users. All fees that are proposed (waste water and water) are to offset the costs to DEQ operational costs and expenditures.

Regarding the section on waste, the bill seeks to "update solid waste permit fees to cover a large proportion of program costs, reduce permitting backlog, and increase permitting staff in regional offices" according to a report from the Secretary of Natural Resources to the Governor. Incinerators and energy recovery facilities are categorized under nonhazardous solid waste management facility and are assessed an annual fee of \$0.055 per ton according to 10.1-1402.1:1. SB1210 proposes to establish an annual fee on top of this fee schedule. This impact would have an indirect impact for the City as the proposed fees would apply to COVANTA and likely be passed on to all users.

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Locality: City of Harrisonburg

Estimated Fiscal Impact: \$48,000.00

The City does not operate a landfill. For water permits, if permit fee is calculated the same as the current VDH fee than estimate would be about \$48,000.

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**Locality:** City of Manassas

**Estimated Fiscal Impact:** \$0.00

The direct fiscal impact to the City of Manassas is \$0 because the City does not operate a landfill. However, we expect our solid waste disposal costs to increase due to this new cost being passed on to users of disposal facilities that will be required to pay this fee. The language in the bill outlines a process to determine a fee, but it does not establish the fee itself, so it is impossible to estimate what the financial impact will be for these increased disposal costs.

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Locality: City of Norfolk

Estimated Fiscal Impact: \$500,000.00

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There is a potential cost to the City of Norfolk, and to the residents of the city. The financial impact of this bill to the city and to the citizens are dependent of the additional fees that are created in response to this bill.  
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Locality: City of Virginia Beach

Estimated Fiscal Impact: \$0.00

The \$0 in this proposal does not represent no cost; instead, it represents a cost that is not able to be quantified.

The City of Virginia Beach does operate a landfill that falls under the Virginia Waste Management Act. Accordingly, there would be a fiscal impact if the proposed §10.1-1402.1 were to be established through passage of the bill. However, the bill delegates the actual fee determination to the Virginia Waste Management Board. Therefore, the actual fee imposed is dependent upon a third party and can not be determined through analysis of the bill text. Furthermore, if the reference to "total direct costs of the nonhazardous solid waste management program" means the Commonwealth's costs in administration of the program, then this amount is known to only to some combination of the Virginia Waste Management Board, the Virginia Division of Environmental Quality, and the Virginia Department of Planning and Budget, but not to an individual local government. Does the total program include only the division of DEQ involved in landfills or is it more comprehensive and includes staff from other sections whose regulations may impact landfills (such as air quality)? Furthermore, the bill allows the fee to be calculated on volume. The Virginia Beach landfill produces 20,000 tons annually, but we have no method of measuring how that compares to the other landfills in the Commonwealth that may fall under this provision of the Code. Because of these three factors---absent testimony from the Waste Management Board or DEQ, a specified fee amount, or a comparative schedule of all the landfills in the Commonwealth---a local impact cannot be determined at this time.

With respect to the various permits specified in the second proposed addition to the Code contained in this bill (§62.1-44.15:6(B4)), Virginia Beach Waste Management does not hold a permit for these activities, rather the division holds a general stormwater permit. Thus, these changes are not expected to impact the City.

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**Locality:** Montgomery County

**Estimated Fiscal Impact:** \$0.00

We use a regional solid waste authority, so no direct fiscal impact.

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Locality: Rappahannock County

Estimated Fiscal Impact: \$1.00

It is very difficult to estimate the fiscal impact of this legislation. This is particularly the case for waste management permits. Fees for permit modifications can and should be priced as necessary to recoup the effort extended to review the permit modification. Completely different is the case for annual permit fees. For closed landfill facilities the entirety of increased annual fees must be absorbed by the owner (local government in many cases) because it is no longer possible to adjust the tipping fee to recoup the increased cost. Similarly, many local governments have host government agreements with private landfill operators. In those situations, the cost sharing arrangement may be already fixed not allowing any further fees on to the private operator who has the ability to increase the tipping fee.

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**Locality:** Town of Ashland

**Estimated Fiscal Impact:** \$0.00

n/a as we use CVWMA to contract for services.  
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Locality: Town of Blacksburg

Estimated Fiscal Impact: \$15,000.00

The Town does not operate a facility described above but participates in a regional authority that does. The authority would pass any permit fees in their per ton fees to the four participating localities. Since the fees are not yet established in this bill, I utilized the permit fees already established in §10.1-1402.1:1 and §62.1-44.15:6 as guides and estimated our locality's portion of the fee that would be passed along to the Town. The Town would pass this increase along to our rate payers. This estimate would not have an impact on the monthly fee charged to our rate payer.

Locality: Town of Marion.

Estimated Fiscal Impact: \$50,000.00

Depending upon final interpretation, all landfill, storm water, etc could be impacted, leaving towns with yet another unfunded mandate

Locality: Town of Scottsville

Estimated Fiscal Impact: \$0.00

Zero direct fiscal impact upon the Town of Scottsville, nor upon similarly situated small towns. Indirect impact is trivial.

The bill creates new fees for landfill operators. I'm not aware of any town-run landfills, so there would be no direct cost impact for Town services. Depending the trash market elasticity, some of the regulatory fee increase may be passed to town governments as a higher service charge. Towns work with landfills either to dispose of their own waste from basic operations, or when providing public works services for residents. The cost of this service might increase slightly but would not likely be any significant impact.

Professional and Other Organization Analysis:

Organization: Northern Neck PDC

These additional fees will likely be passed on to localities contracting for disposal/recycling center contracts. Negative fiscal impact to localities with no mitigating additional service. Unknown amount.