

## Department of Planning and Budget

### 2021 Fiscal Impact Statement

**1. Bill Number:** HB2129

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

**2. Patron:** Lopez

**3. Committee:** Appropriations

**4. Title:** Chesapeake Bay; wastewater treatment; Enhanced Nutrient Removal Certainty Program.

**5. Summary:** Requires the State Water Control Board to adopt regulations establishing a Phase III Watershed Implementation Plan Enhanced Nutrient Removal Certainty (ENRC) Program, consisting of a number of total nitrogen and total phosphorous waste load allocation reductions assigned to particular water treatment facilities with schedules for compliance. The bill provides that the ENRC Program shall operate in lieu of certain Chesapeake Bay waste load regulations. The bill directs the Board to modify affected discharge permits to incorporate the provisions of the ENRC Program and requires certain compliance plans due beginning February 1, 2023, to address the requirements of the ENRC Program.

The bill provides that the funding of certain design and installation costs for implementing nutrient upgrades pursuant to the ENRC Program shall be eligible for grants from the Water Quality Improvement Fund. The ENRC Program is required to proceed regardless of whether such grants will exceed the available funds in the Fund for a given fiscal year. The bill lists the projects and the total nitrogen or total phosphorus waste load allocation reductions that specified facilities are to complete. The bill provides that when grant disbursements reach a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works certain General Assembly committees review the future funding needs to meet the purposes of the Water Quality Improvement Act, the most recent annual needs estimate, and the appropriate funding mechanism for such needs.

The bill also authorizes the Secretary of Natural Resources to develop one or more additional watershed implementation plans pursuant to §2.2-218, Code of Virginia, if the Secretary determines on or after July 1, 2026, that the Commonwealth has not achieved, or in the event of increased nutrient loads associated with climate change will not be able to maintain, its nitrogen pollution reduction commitments in the Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Implementation Plan.

**6. Budget Amendment Necessary:** See item 8.

**7. Fiscal Impact Estimates:** Preliminary. See item 8.

- 8. Fiscal Implications:** This bill requires the State Water Control Board to establish the Enhanced Nutrient Removal Certainty (ENRC) Program, to be administered by the Department of Environmental Quality (DEQ). The bill provides that when grant disbursements reach a sum sufficient to fund the completion of the ENRC Program at all publicly owned treatment works certain General Assembly committees review the future funding needs to meet the purposes of the Water Quality Improvement Act, the most recent annual needs estimate, and the appropriate funding mechanism for such needs. The bill additionally denotes which facilities are subject to additional requirements for total nitrogen or total phosphorus and for potential permit modification under the ENRC Program.

DEQ anticipates a potential need of \$402.0 million through fiscal year 2025. This estimate is based on the agency's most recent needs assessment, which was conducted in June 2020. DEQ is to complete a new needs assessment in June 2021. According to DEQ, this bill may impact findings in future needs assessments, as previous assessments may not have included the facilities mentioned in the bill.

According to the DEQ, projects impacted by this bill will be eligible for funding through the Water Quality Improvement Fund (WQIF). Historically, support to the WQIF has been provided through bond authorizations. Recent authorizations to support nutrient reduction grants total \$210.0 million: \$101.0 million in Item C-39.40, Chapter 1, 2014 Acts of Assembly, \$59.0 million in Chapter 759, 2016 Acts of Assembly, and \$50.0 million in Item C-70, Chapter 1289, 2020 Acts of Assembly. As of the second quarter of fiscal year 2021, \$143.0 million has been allocated for qualifying projects. According to DEQ, all but \$5.6 million of the \$210.0 million authorization is committed. The identified need of \$402.0 million is in addition to the existing \$210.0 million authorization.

It is anticipated that any expenditure impact on the DEQ as a result of this bill can be absorbed within existing resources.

Proposed House amendments to HB1800/SB1100 include a \$150 million VPBA bond authorization for DEQ to implement the enhanced Nutrient Removal Certainty Program as described in HB2129, which also establishes the Enhanced Nutrient Removal Certainty Program (ENRC) Program. .

- 9. Specific Agency or Political Subdivisions Affected:** State Water Control Board, Department of Environmental Quality, localities

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** SB1354 also establishes the Enhanced Nutrient Removal Certainty Program (ENRC) Program. This bill has technical amendments.