

Virginia and Maryland General Assembly
2010 Legislation Addressing Chesapeake Bay Restoration Issues
COG staff summary (*status as of 3/3/11*)

Virginia – 2011 General Assembly (convened Jan. 12 / adjourned Feb. 26)

* **HB 2047 (Ebbin) Paper and plastic bag fee.**

Would impose a fee of \$0.05 on most paper and plastic bags. **NOT ADOPTED**

<http://lis.virginia.gov/cgi-bin/legp604.exe?111+sum+HB2047>

* **HB 2071 (Ingram) Stormwater utility fees; exemptions.**

Provides for an exemption from stormwater utility fees for certain religious and nonprofit uses. **NOT ADOPTED**

<http://lis.virginia.gov/cgi-bin/legp604.exe?111+sum+HB2071>

* **SB 1099 (Hanger) Nonpoint nutrient offsets. And SB 1100 (Hanger) Water Quality Improvement Fund; nutrient offsets.**

Establishes priorities to be used by permit issuing authorities when considering off-site phosphorous control options for stormwater permits. Creates the Nutrient Offset Fund as part of the Nutrient Credit Exchange Program and requires the state to use the fund to purchase nutrient offsets with a priority given to offsets produced by facilities that generate electricity from animal waste. **ADOPTED**

<http://leg1.state.va.us/cgi-bin/legp504.exe?111+sum+SB1100>

Staff note: Although the bill was amended somewhat from its original version, local governments remain concerned that it might restrict the usefulness of future offsets and trading of nutrient credits for purposes of TMDL compliance.

* **SJ334 (Whipple) Study; expansion of the Chesapeake Bay Watershed Nutrient Credit Exchange Program; report.**

Provides for a study of the expansion of the state's Nutrient Credit Exchange Program by the Secretary of Natural Resources. **ADOPTED**

<http://leg1.state.va.us/cgi-bin/legp504.exe?111+sum+SJ334>

Various bills, including **HB 1751, HB 1831, HB 2348, SB 922 and SB 1055**, addressing turfgrass fertilizer restrictions. The bills variously propose to ban or restrict the phosphorus content of lawn fertilizer, ban winter application of such fertilizer, ban its application to impervious surfaces, among other things. **Consolidated into HB 1301/SB 1055. ADOPTED**

Staff note: This bill has the potential to generate nutrient reductions in the TMDL accounting process.

*** HB 1500 / SB 800 Budget Bill 2010-2012. Items 351 L and 357, under Secretary of Natural Resources.**

Under the Governor's proposed amendments to the 2010-2012 budget, approximately \$37 million would be appropriated to the state's Water Quality Improvement Fund, of which approximately \$33 million would be earmarked for use in addressing nonpoint source pollution.

Staff note: The WQIF currently does not have the funds to pay all of the state's cost-share obligations for ENR implementation at WWTPs.

Budget Amendment requests

- Sen. Whipple proposed appropriating \$100 million from the state's General Fund to the WQIF to be used solely for enhanced nutrient removal at wastewater plants. **NOT ADOPTED**
- Del. Pollard has proposed that local governments not be able to use taxpayer or ratepayer-derived funds to bring or support litigation against the Commonwealth if such litigation seeks to overturn the federal Chesapeake Bay Total Daily Maximum Load developed by the U.S. Environmental Protection Agency, Virginia's applicable Chesapeake Bay Watershed Implementation Plan, or any local implementation plan related thereto. **NOT ADOPTED**

2011 Maryland General Assembly (convened Jan. 12 / set to adjourn April 11)

*** HB 177 (Lafferty, Beidle) On-Site Sewage Disposal Systems – Nitrogen Removal. [SAME AS SB 160] (Frosh)**

Prohibiting the installation of an on-site sewage disposal system in the state in the watersheds of the Chesapeake and Atlantic Coastal Bays to service a newly constructed building unless the system utilizes nitrogen removal technology.

<http://mlis.state.md.us/2011rs/billfile/hb0177.htm>

Staff note: This matches current CBPC policy on this issue

*** HB 1107 (Lafferty) Sustainable Growth and Agricultural Preservation Act of 2011 [SAME AS SB 846] (Pinsky)**

Prohibiting, with specified exceptions, the State or a local authority, after July 1, 2011, from recording or approving a residential major subdivision or a residential minor subdivision that will be served by a specified on-site sewage disposal system; authorizing the State or a local authority, after July 1, 2011, to record or approve a specified residential major subdivision that will be served by a publicly owned sewerage system or specified other sewerage systems that meet specified criteria; etc.

<http://mlis.state.md.us/2011rs/billfile/hb1107.htm>

Staff note: Would not allow individual septic systems for subdivisions of 5 houses or more.

*** HB 1064 (Hucker, et al.) Watershed Protection & Restoration Act.**

Requiring counties and municipalities to adopt laws or ordinances to establish a stormwater remediation fee and a local watershed protection and restoration fund on or before July 1, 2012; requiring counties and municipalities to collect the fee and administer the fund in accordance with the Act; requiring counties and municipalities to set the amount of the fee and assess the fee in a specified manner; requiring counties and municipalities to report specified information to MDE; etc.

<http://mlis.state.md.us/2011rs/billfile/hb1064.htm>

Staff note: Most of COG's Maryland jurisdictions currently have such fee programs in place.

*** SB 552 (Madaleno) Local Stormwater Charges – State Property.**

Repealing an exemption from specified taxes, user charges, and utility fees related to stormwater for property owned by the State or a unit of State government; providing that property owned by the State or a unit of State government is subject to specified stormwater charges imposed by the governing body of a county or municipality within which the property is located; etc.

<http://mlis.state.md.us/2011rs/billfile/sb0552.htm>

Staff note: Allowing exemptions makes it unlikely that local governments can collect such fees from the federal government despite the recently approved legislation, S. 3481, on this issue.

*** HB 1034 (Carr)/SB 602 (Raskin) Clean the Streams and Beautify the Bay Act of 2011.**

Prohibiting a store from providing disposable carryout bags unless the bags meet specified requirements; requiring a store to charge and collect a fee for each disposable carryout bag the store provides to a customer; requiring the operator of a store to remit a specified amount of money to the Comptroller; requiring the Comptroller to distribute specified amounts of money to the Department of Labor, Licensing, and Regulation, to the Chesapeake Bay Trust, and to the Department of Human Resources for specified purposes; etc.

* Various bills, including **HB 1573/SB 487**, **HB 687/SB 544**, **HB 706/SB 546**, addressing turfgrass fertilizer restrictions. The bills variously propose to set N and P limits for turfgrass fertilization, specify nutrient content in fertilizer sold to the public, requiring specific signage, etc.

<http://mlis.state.md.us/2011rs/billfile/sb0602.htm>

Staff note: Provisions in this series of bills have the potential to account for reductions under the Bay TMDL accounting system.

SB 85/ HB 70 Budget Bill FY 2012.

These are the O'Malley administration's budget bills, which will affect funding for:

- Program Open Space
- Chesapeake Bay Trust Fund
- Bay Restoration Fund
- Agency funding for MDE, MdDNR