

COG staff summary of status of 2010 Virginia and Maryland General Assembly legislation addressing Chesapeake Bay restoration issues

Status as of March 12, 2010

Note –all bills are still viable unless otherwise noted.

The 2010 **Virginia** General Assembly convened Jan. 13, set to adjourn March 13

HB 30/ SB 30 Budget Bill 2010-2012. Item 357, under Secretary of Natural Resources; DEQ.

Synopsis: To the extent available, the authorization included in Chapter 781, 2009 Acts of Assembly, Item 368, paragraph E, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance Virginia Water Quality Improvement Grants, pursuant to Chapter 851, 2007 Acts of Assembly.

Staff note: The language of these bills is meant to facilitate the previous agreement to enhance funding for Virginia's Water Quality Improvement Fund by issuing revenue bonds. These bills support that approach, which would supply needed funds for local wastewater treatment plant upgrades.

HB 1220 (Hugo) Stormwater management regulations; effective date. House Bills Incorporated into HB 1220: HB 155 (Dance), HB 1311 (Bulova)

Synopsis: Extends the effective date of the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria.

SB 395 (Wagner) Stormwater management regulations; effective date. Senate Bills Incorporated into SB 395: SB 677 (Hanger), SB 681 (Whipple), SB 245 (Watkins)

Synopsis: Extends the effective date of the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria.

SB 395 (Wagner) Stormwater management regulations; effective date.

Synopsis: Extends the effective date of the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria based on the completion of the Virginia TMDL Implementation Plan for the Chesapeake Bay Nutrient and Sediment TMDL approved by the United States Environmental Protection Agency and the regulations thereafter adopted to implement the Plan.

Senate 2010-12 Budget Amendment, Item 351#5s (Hanger)

Synopsis: Delays implementation of stormwater management regulations for one year.

02/21/10 Senate: Senate Finance Committee approved the following: Delays implementation of stormwater management regulations until EPA establishes pollution load limits for the Chesapeake Bay.

Staff note: All four sets of the above bills would delay the implementation of Virginia's new state stormwater regulations, whose promulgation by the Department of Conservation and Recreation has generated controversy.

HB 132 (Pollard) Alternative onsite sewage systems.

Synopsis: Prohibits the Department of Health from issuing permits from alternative onsite sewage systems that are located in a wetland, (ii) setback less than 50 feet from any impaired waters, (iii) within one foot vertically of any groundwater resource, or (iv) discharging directly into a groundwater resource if located in the watershed of any impaired waters. Allows localities that include impaired waters to require maintenance standards and requirements for onsite sewage systems that exceed those established by the State Board of Health.

HB 1115 (Ebbin) Paper and plastic bag fee.

Synopsis: Imposes a fee of \$0.05 on paper and plastic bags used by purchasers to carry tangible personal property from the place of purchase. Durable, reusable plastic bags and bags used for ice cream, meat, fish, poultry, leftover restaurant food, newspapers, dry cleaning and prescription drugs are exempt from the fee. Retailers are allowed to retain \$0.01 of the \$0.05 fee or \$0.02 if the retailer has a customer bag credit program. The revenues raised by the fee will be deposited in the Virginia Water Quality Improvement Fund. Failure to collect and remit the fee will result in fines of \$250, \$500, and \$1,000 for the first, second, third and thereafter offenses. DID NOT PASS

HB 1221 (Bulova) Virginia Water Facilities Revolving Fund.

Synopsis: Provides that loans may be made from the Virginia Water Facilities Revolving Fund, at the State Water Control Board's discretion, to a local government for construction of facilities or structures or implementation of best management practices that reduce or prevent pollution of state waters caused by stormwater runoff from impervious surfaces.

Staff note: This bill was amended to continue the priority given to the use of these funds for wastewater treatment plant projects.

The 2010 **Maryland** General Assembly convened Jan. 13 and is set to adjourn April 12.

HB 70/ Bay Restoration Fund – Expanded Use of Funds <http://mlis.state.md.us/2010rs/billfile/HB0070.htm>

Synopsis: Authorizing the use of the Bay Restoration Fund as a source of revenue or security for the payment of principal of and interest on bonds issued by a local government if the proceeds are used to fund the eligible costs of enhanced nutrient removal under specified circumstances.

Staff note: This bill would enable MDE to use local bonding authority to leverage available money in the Bay Fund and thereby increase the amount of funds available to cover nutrient upgrades. MDE would

use fees paid into the fund to pay the amount due on bonds executed by local governments. This avoids delays in implementing the next stage of nutrient removal at area wastewater plants, known as "enhanced nutrient removal."

HB 351 / SB 462 Chesapeake Bay Restoration Consumer Retail Choice Act of 2010

<http://mlis.state.md.us/2010rs/billfile/HB0351.htm>

Synopsis: 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 Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

HB 999/SB 686 Watershed Protection and Restoration Act

<http://mlis.state.md.us/2010rs/billfile/SB0686.htm>

Synopsis: Requiring counties and municipalities to adopt laws or ordinances to establish a stormwater remediation fee and a local watershed protection fund on or before July 1, 2011.

HB 964 / SB 420 Environment - Stormwater Management - New Development and Redevelopment Projects

<http://mlis.state.md.us/2010rs/billfile/SB0420.htm>

Synopsis: Making specified stormwater management regulations adopted by the Department of the Environment applicable to all new development and redevelopment projects that do not have final approval for erosion and sediment control and stormwater management plans by May 4, 2020; and making the Act an emergency measure.

Staff note: These two bills and the following one, HB 1125, were introduced in response to developers' concerns about the costs of complying with the state's new stormwater management regulations, particularly for redevelopment projects. According to news accounts, MDE, the developers and the environmental community have reached agreement on a set of regulatory changes that obviate the need for these bills. Assuming that MDE files the agreed-upon regulatory changes by the end of the session, the bills reportedly will be withdrawn.

HB 1125 Stormwater Management – Development Projects – Redevelopment and Preliminary Plan Approval

<http://mlis.state.md.us/2010rs/billfile/HB1125.htm>

Synopsis: Establishing specified requirements for a specified redevelopment project design; authorizing a developer to make a fee-in-lieu payment to a local government to offset specified stormwater management requirements; requiring the fee-in-lieu payment to be in an amount determined by a local government and used for specified purposes; authorizing a person to submit a stormwater management plan that complies with specified laws and regulations if a development project receives specified approvals before May 4, 2010.

(See staff note for this bill above.)

HB 150/151SB 140 /141

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