

12105120D

SENATE BILL NO. 494

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 7, 2012)

(Patrons Prior to Substitute—Senators Watkins and Hanger)

A BILL to amend and reenact §§ 10.1-1186.01 and 62.1-241.12 of the Code of Virginia and to amend and reenact the third enactment of Chapters 851 and 900 of the Acts of Assembly of 2007, relating to reimbursement to localities of funds for upgrades of publicly owned treatment works and grants for CSO projects in Lynchburg and Richmond.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1186.01 and 62.1-241.12 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-1186.01. Reimbursements to localities for upgrades to treatment works.

A. The General Assembly shall fund grants to finance the reasonable costs of design and installation of nutrient removal technology at the publicly owned treatment works designated as significant dischargers contained in subsection E, or as eligible nonsignificant dischargers as defined in § 10.1-2117. Notwithstanding § 10.1-2128, at such time as grant disbursements pursuant to this section reach 200 percent of the appropriations provided for in Chapter 951 of the Acts of Assembly of 2005 and Chapter 10 of the Acts of Assembly of 2006, Special Session I, the House Committee on Agriculture, Chesapeake and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation and Natural Resources, and the Senate Committee on Finance shall review the future funding needs to meet the purposes of the Water Quality Improvement Act and the appropriate funding mechanism for such needs.

B. The disbursement of grants for the design and installation of nutrient removal technology at those publicly owned treatment works included in subsection E and eligible nonsignificant dischargers shall be made monthly based on a requisition submitted by the grant recipient in the form requested by the Department. Each requisition shall include written certification that the applicable local share of the cost of nutrient removal technology for that portion of the project covered by such requisition has been incurred or expended. Except as may otherwise be approved by the Department, disbursements shall not exceed 95 percent of the total grant amount until satisfactory completion of the project. The distribution of the grants shall be effected by one of the following methods:

1. In payments to be paid by the State Treasurer out of funds appropriated to the Water Quality Improvement Fund pursuant to § 10.1-2131;

2. Over a specified time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality or public service authority undertaking the design and installation of nutrient removal technology, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In payments to be paid by the State Treasurer upon request of the Director of Environmental Quality out of proceeds from bonds issued by the Virginia Public Building Authority, in consultation with the Department of Environmental Quality, pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264, including the Commonwealth's share of the interest costs expended by the locality or regional authority for financing such project during the period from ~~50%~~ 50 percent completion of construction to final completion of construction.

C. The General Assembly shall have the sole authority to determine whether disbursement will be made pursuant to subdivision B 1, B 2, or B 3, or a combination thereof, provided that a disbursement shall only be made pursuant to subdivision B 3 upon a certification by the Department of Environmental Quality that project grant reimbursements for the fiscal year will exceed the available funds in the Water Quality Improvement Fund.

D. Exclusive of any deposits made pursuant to § 10.1-2128, the grants awarded pursuant to this section shall include such appropriations as provided for in Chapter 951 of the Acts of Assembly of 2005; and Chapter 10 of the Acts of Assembly of 2006, Special Session I.

E. The disbursement of grants to finance the costs of design and installation of nutrient removal technology at the following ~~89~~ 85 publicly owned treatment works and other eligible nonsignificant dischargers shall be provided pursuant to the distribution methodology included in § 10.1-2131. However, in no case shall any publicly owned treatment works receive a grant of less than ~~35%~~ 35 percent of the costs of the design and installation of nutrient removal technology.

FACILITY NAME OWNER

Shenandoah - Potomac River Basin

SENATE SUBSTITUTE

SB494S1

2/8/12 8:3

60		
61	ACSA-Fishersville STP	Augusta County Service Authority
62	Luray STP	Town of Luray
63	ACSA-Middle River Regional STP	Augusta County Service Authority
64	HRRSA-North River WWTF	
65	Regional Sewer Authority	Harrisonburg-Rockingham
66	ACSA-Stuarts Draft STP	Augusta County Service Authority
67	Waynesboro STP	City of Waynesboro
68	ACSA-Weyers Cave STP	Augusta County Service Authority
69	Berryville STP	Town of Berryville
70	Front Royal STP	Town of Front Royal
71	Mount Jackson STP	Town of Mount Jackson
72	New Market STP	Town of New Market
73	Shenandoah Co. North Fork	
74	– Regional WWTF	Shenandoah County
75	Stoney Creek Sanitary District STP	Stoney Creek Sanitary District
76	Strasburg STP	Town of Strasburg
77	Woodstock STP	Town of Woodstock
78	FWSA-Opequon Water Reclamation	
79	Facility Authority	Frederick-Winchester Service
80	FWSA-Parkins Mill WWTF Authority	Frederick-Winchester Service
81	Purcellville-Basham Simms WWTF	Town of Purcellville
82	LCSA-Broad Run WRF	Loudoun County Service Authority
83	Leesburg WPCF	Town of Leesburg
84	Round Hill WWTP	Town of Round Hill
85	PWCSA-H.L. Mooney WWTF Authority	Prince William County Service
86	Upper Occoquan Sewage Authority WWTP	Upper Occoquan Sewage Authority
87	FCW&SA-Vint Hill WWTF	Fauquier County Water and Sewer
88		Authority
89	Alexandria Sanitation Authority WWTP	Alexandria Sanitation Authority
90	Arlington Co. WPCF	Arlington County
91	Fairfax Co. - Noman-Cole	
92	Pollution Control Facility	Fairfax County
93	Stafford Co.-Aquia WWTP	Stafford County
94	Colonial Beach STP	Town of Colonial Beach
95	Dahlgren Sanitary District WWTP	
96	Authority	King George County Service
97	Fairview Beach STP Authority	King George County Service
98	Purkins Corner WWTP Authority	King George County Service
99	District of Columbia - Blue	
100	Plains STP (Virginia portion	
101	and Fairfax County contract	
102	for capacity)	Loudoun County Service Authority
103		
104	Rappahannock River Basin	
105		
106	Culpeper WWTP	Town of Culpeper
107	Marshall WWTP	Town of Marshall
108	Mountain Run WWTP	Culpeper County
109	Orange STP	Town of Orange
110	Rapidan STP	Rapidan Service Authority
111	FCW&SA-Remington WWTP	Fauquier County Water and Sewer
112		Authority
113	Warrenton STP	Town of Warrenton
114	Wilderness Shores WWTP	Rapidan Service Authority
115	Spotsylvania Co.-FMC WWTF	Spotsylvania County
116	Fredericksburg WWTF	City of Fredericksburg

117	Stafford Co.-Little Falls Run WWTF	Stafford County
118	Spotsylvania Co.-Massaponax WWTF	Spotsylvania County
119	Montross-Westmoreland WWTP	Westmoreland County
120	Oakland Park STP Authority	King George County Service
121	Tappahannock WWTP	Town of Tappahannock
122	Urbanna WWTP	Hampton Roads Sanitation District
123	Warsaw STP	Town of Warsaw
124	Reedville Sanitary District WWTP	Reedville Sanitary District
125	Kilmarnock WWTP	Town of Kilmarnock
126		
127	York River Basin	
128		
129	Caroline Co. Regional STP	Caroline County
130	Gordonsville STP	Rapidan Service Authority
131	Ashland WWTP	Hanover County
132	Doswell WWTP	Hanover County
133	HRSD-York River STP	Hampton Roads Sanitation District
134	Parham Landing WWTP	New Kent County
135	Totopotomoy WWTP	Hanover County
136	HRSD-West Point STP	Hampton Roads Sanitation District
137	HRSD-Mathews Courthouse STP	Hampton Roads Sanitation District
138		
139	James River Basin	
140		
141	Buena Vista STP	City of Buena Vista
142	Clifton Forge STP	Town of Clifton Forge
143	Covington STP	City of Covington
144	Lexington-Rockbridge Regional WQCF	Maury Service Authority
145	Alleghany Co.-Low Moor STP	Alleghany County
146	Alleghany Co.-Lower Jackson River	
147	WWTP	Alleghany County
148	Amherst-Rutledge Creek WWTP	Town of Amherst
149	Lynchburg STP	City of Lynchburg
150	RWSA-Moores Creek Regional STP	
151	Authority	Rivanna Water and Sewer
152	Crewe WWTP	Town of Crewe
153	Farmville WWTP	Town of Farmville
154	Chesterfield Co.-Falling Creek WWTP	Chesterfield County
155	Henrico Co. WWTP	Henrico County
156	Hopewell Regional WWTF	City of Hopewell
157	Chesterfield Co.-Proctors Creek WWTP	Chesterfield County
158	Richmond WWTP	City of Richmond
159	South Central Wastewater	
160	Authority WWTF	South Central Wastewater Authority
161	Chickahominy WWTP	New Kent County
162	-HRSD-Boat Harbor STP District	Hampton Roads Sanitation
163	HRSD-James River STP District	Hampton Roads Sanitation
164	HRSD-Williamsburg STP District	Hampton Roads Sanitation
165	HRSD-Nansemond STP District	Hampton Roads Sanitation
166	HRSD-Army Base STP District	Hampton Roads Sanitation
167	HRSD-Virginia Initiative Plant STP	
168	District	Hampton Roads Sanitation
169	HRSD-Chesapeake/Elizabeth STP	
170	District	Hampton Roads Sanitation
171		
172	Eastern Shore Basin	

173

174 Cape Charles WWTP Town of Cape Charles

175 Onancock WWTP Town of Onancock

176 Tangier Island WWTP Town of Tangier

177 *Broadway Regional WWTP* *Town of Broadway*

178 F. To the extent that any publicly owned treatment works receives less than the grant specified
 179 pursuant to § 10.1-2131, any year-end revenue surplus or unappropriated balances deposited in the Water
 180 Quality Improvement Fund, as required by § 10.1-2128, shall be prioritized in order to augment the
 181 funding of those projects for which grants have been prorated. Any additional reimbursements to these
 182 prorated projects shall not exceed the total reimbursement amount due pursuant to the formula
 183 established in subsection E of § 10.1-2131.

184 G. Notwithstanding the provisions of subsection B of § 10.1-2131, the Director of the Department of
 185 Environmental Quality shall not be required to enter into a grant agreement with a facility designated as
 186 a significant discharger or eligible nonsignificant discharger if the Director determines that the use of
 187 nutrient credits in accordance with the Chesapeake Bay Watershed Nutrient Credit Exchange Program
 188 (§ 62.1-44.19:12 et seq.) would be significantly more cost-effective than the installation of nutrient
 189 controls for the facility in question.

190 § 62.1-241.12. Combined Sewer Overflow Matching Fund established; purposes.

191 A. There is hereby established the Combined Sewer Overflow Matching Fund ("Fund") to ~~match~~
 192 ~~federal money for purposes of providing~~ *provide* grants to localities for CSO projects. The Fund shall be
 193 established out of the sums appropriated from time to time by the General Assembly ~~for the purpose of~~
 194 ~~matching, which may include funds designated to match~~ federal funds allocated to Virginia for CSO
 195 controls, ~~and funds from any other source, public or private.~~ The Fund, and all income from the
 196 investment of moneys held in the Fund and any other sums designated for deposit to the Fund from any
 197 source, public or private, shall be set apart as a permanent and perpetual fund, subject to liquidation
 198 only upon the solution of Virginia's combined sewer overflow problems, as may be determined by the
 199 General Assembly. The Fund shall be administered and managed by the Virginia Resources Authority,
 200 subject to the right of the State Water Control Board, following consultation with the Authority, to
 201 direct the distribution of grants from the Fund to particular local governments. The State Water Control
 202 Board may establish such terms and conditions on any grant as it deems appropriate, and grants shall be
 203 disbursed from the Fund by the Virginia Resources Authority in accordance with the written direction of
 204 the State Water Control Board.

205 B. *In the fiscal year beginning July 1, 2012, not less than \$78 million of the net proceeds of bonds*
 206 *issued by the Virginia Public Building Authority shall be deposited into the Fund to be used, along with*
 207 *any interest earnings thereon, by the Virginia Resources Authority and the State Water Control Board to*
 208 *make grants to the cities of Lynchburg and Richmond to pay a portion of the capital costs of their CSO*
 209 *control projects. Thirty-six percent of such net proceeds shall be provided to the City of Lynchburg and*
 210 *64 percent to the City of Richmond. No such net proceeds shall be used to pay debt service on*
 211 *obligations of the Cities of Lynchburg or Richmond or any other localities or regional or local*
 212 *authorities.*

213 2. That the third enactment of Chapters 851 and 900 of the Acts of Assembly of 2007 are
 214 amended and reenacted as follows:

215 3. That based upon a ~~determination~~ *determinations* by the General Assembly pursuant to (i)
 216 subsection C of § 10.1-1186.01 of the Code of Virginia to distribute ~~the grants~~ *certain Water*
 217 *Quality Improvement Grants* for the design and installation of nutrient removal technology at
 218 publicly owned treatment works designated as significant dischargers or as eligible nonsignificant
 219 dischargers as defined in § 10.1-2117 of the Code of Virginia *and* (ii) *subsection B of § 62.1-241.12*
 220 *of the Code of Virginia to make grants to the Cities of Lynchburg and Richmond to pay a portion of*
 221 *the capital costs of their combined sewer overflow control projects, through the use of bonds as*
 222 *provided for in subdivision B 3 of § 10.1-1186.01 and subsection B of § 62.1-241.12, the Virginia*
 223 *Public Building Authority is authorized to fund certain Water Quality Improvement Grants such*
 224 *grants through the issuance of bonds as follows:*

225 § 1. Pursuant to §§ 2.2-2261, 2.2-2263, and 2.2-2264 of the Code of Virginia, the Virginia Public
 226 Building Authority is hereby authorized to finance, *through the issuance of bonds, without*
 227 *limitation and together with other available funds, (i) certain Virginia Water Quality Improvement*
 228 *Grants pursuant to Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of*
 229 *Virginia, through the issuance of bonds, without limitation and together with other available funds*
 230 *("Nutrient Removal Grants") and (ii) certain Combined Sewer Overflow grants pursuant to subsection*
 231 *B of § 62.1-241.12 of the Code of Virginia ("CSO Grants," and together with Nutrient Removal*
 232 *Grants, "the Grants"). Such grants* Grants shall be used exclusively to fund (a) a portion of some
 233 or all of the acquisition, design, construction, installation, ~~equipping~~ *equipping* *equipment*, improvement, or

234 renovation of nutrient removal technology for significant dischargers contained in ~~§ 2 of this~~
 235 ~~enactment subsection E of § 10.1-1186.01 of the Code of Virginia~~ and eligible nonsignificant
 236 dischargers as defined in § 10.1-2117 of the Code of Virginia and (b) a portion of the capital costs
 237 of the combined sewer overflow control projects of the Cities of Lynchburg and Richmond pursuant
 238 to subsection B of § 62.1-241.12.

239 § 2. The Virginia Public Building Authority is authorized to take any and all necessary, proper,
 240 or convenient steps and to exercise any and all powers granted to it by law to carry out the
 241 undertaking and financing contemplated by the provisions of this enactment, including the power
 242 to finance ~~grants the Grants~~ to fund a portion of the costs of any or all of the projects set forth in
 243 this act by the issuance of revenue bonds from time to time in an aggregate principal amount not
 244 to exceed ~~\$250~~ \$628 million, plus amounts needed to fund issuance costs, reserve funds, original
 245 issue discount, and other financing expenses.

246 § 3. ~~The \$550 million of the net proceeds of Virginia Public Building Authority bonds shall~~
 247 ~~finance Virginia Water Quality Improvement Nutrient Removal Grants~~ to fund or reimburse
 248 approved capital costs for each such *nutrient removal* project as and to the extent determined by
 249 the Department of Environmental Quality pursuant to the provisions of this enactment and of
 250 Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia, including but
 251 not limited to the qualifications of projects for Virginia Water Quality Improvement Grants as set
 252 forth in §§ 10.1-2129, 10.1-2130, and 10.1-2131 of the Code of Virginia and in written guidelines
 253 developed by the Secretary of Natural Resources in accordance with § 10.1-2129. *The remaining*
 254 *\$78 million of the net proceeds shall finance the CSO Grants in accordance with subsection B of*
 255 *§ 62.1-241.12 of the Code of Virginia.* Bond proceeds may not be used to pay debt service on
 256 obligations of regional or local governments or authorities. ~~A separate account shall be maintained~~
 257 ~~for the grants under this enactment and for bonds issued to finance such grants. Upon~~
 258 ~~certification to the Authority by the Department of Environmental Quality that a project qualifies~~
 259 ~~for a grant under the provisions of this act and the provisions of Article 4 (§ 10.1-2128 et seq.) of~~
 260 ~~Chapter 21.1 of Title 10.1 of the Code of Virginia and of the proposed amount and purpose of~~
 261 ~~such grant, the Authority shall cause the disbursement of bond proceeds to fund such grant, but~~
 262 ~~only to the extent of available funds therefore.~~

263 § 4. The proceeds of such bonds are hereby appropriated for disbursement from the state
 264 treasury pursuant to Article X, Section 7 of the Constitution of Virginia, and § 2.2-1819 of the
 265 Code of Virginia. ~~Grants funded with~~ *The net proceeds of the bonds issued to make Nutrient*
 266 *Reduction Grants* will be deposited in a separate account in the Virginia Water Quality
 267 Improvement Fund, pursuant to § 10.1-2128 of the Code of Virginia, which authorizes such Fund
 268 to consist of such other sums as may be made available to it from any other source, public or
 269 private. *Upon certification to the Authority by the Department of Environmental Quality that a*
 270 *project qualifies for a Nutrient Reduction Grant under the provisions of this act and the provisions of*
 271 *Article 4 (§ 10.1-2128 et seq.) of Chapter 21.1 of Title 10.1 of the Code of Virginia and of the*
 272 *proposed amount and purpose of such Grant, the Authority shall cause the disbursement of bond*
 273 *proceeds to fund such Grant, but only to the extent of available funds therefor. The net proceeds of*
 274 *the bonds issued to finance the CSO Grants shall be deposited in the Combined Sewer Overflow*
 275 *Matching Fund established pursuant to § 62.1-241.12 of the Code of Virginia.* The general conditions
 276 and general provisions of a general appropriation act enacted by the General Assembly, in effect
 277 from time to time, and all of the terms and conditions contained therein shall apply to the capital
 278 projects listed in this act.

279 § 5. No bonds ~~authorized pursuant to this enactment in excess of the aggregate principal amount~~
 280 ~~of \$378 million~~ shall be issued prior to July 1, ~~2008~~ 2013.

281 3. That the amended authorization made to § 2 of the third enactments of Chapters 851 and 900
 282 of the Acts of Assembly of 2007, as amended by the second enactment of this act, relating to the
 283 Virginia Public Building Authority to issue bonds in an additional aggregate principal of \$378
 284 million, is for the purposes of (i) funding or reimbursing approved capital costs for additional
 285 nutrient removal technology projects of significant dischargers as defined in subsection E of
 286 § 10.1-1186.01 of the Code of Virginia and of eligible nonsignificant dischargers as defined in
 287 § 10.1-2177 of the Code of Virginia, pursuant to the Chesapeake Bay TMDL Phase 1 Watershed
 288 Improvement Plan, and (ii) financing grants to the cities of Lynchburg and Richmond to pay a
 289 portion of the capital costs of their combined sewer overflow control projects pursuant to
 290 subsection B of § 62.1-241.12 of the Code of Virginia.