

ITEMS FOR CONSIDERATION
IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM
2017 VIRGINIA GENERAL ASSEMBLY

October 25, 2016

INDEX

ITEMS FOR INITIAL CONSIDERATION

Environment—The Center for Stormwater Technology Advancement	2
Housing—Adding Protected Classes to the Virginia Fair Housing Law	4

ENVIRONMENT—THE CENTER FOR STORMWATER TECHNOLOGY ADVANCEMENT**PROPOSAL:**

Analyze a proposal to create and fund a Center for Stormwater Technology Advancement (CSTA) at Virginia Tech and Old Dominion Universities.

SOURCE:

Fairfax County Board of Supervisors' Legislative Committee
September 30, 2016

BACKGROUND:

As required by the federal Clean Water Act, Virginia biannually identifies waters that are impaired and establishes total maximum daily loads (TMDL) to determine the total amount of a pollutant that a waterbody can handle without further compromising the water quality. Efforts in Virginia to meet the urban stormwater management needs of the Chesapeake Bay TMDL—one of many waterbodies identified as impaired—are estimated to exceed \$10 billion, with annual operating costs expected to exceed \$1 billion. Capital costs for Fairfax County's contributions to the Chesapeake Bay TMDL effort are anticipated to be between approximately \$640 million and \$845 million. Yet, research is needed to guide the investment of these funds, as experts in the field recognize that policies and technologies to mitigate urban stormwater pollution have not been developed to a level comparable to those for wastewater management.

As discussed during the October 11, 2016, Environmental Committee, some stormwater management stakeholders have developed a proposal for the creation of a Center for Stormwater Technology Advancement (CSTA), which would generate research to help Virginia more effectively design ordinance and permit requirements, and make smarter investments that yield more predictable outcomes. Under the current proposal, the CSTA would be within Virginia Tech and would collaborate with Old Dominion University and other institutions of higher learning, federal, state and local government agencies, the private sector, and other relevant entities. An advisory board for the CSTA would be composed of 15 members, including: one representative each from the Virginia Department of Environmental Quality (VDEQ) and the Virginia Department of Transportation (VDOT); eight representatives from localities that own a Municipal Separate Storm Sewer System (MS4); four representatives from the industry sector (e.g., stormwater manufacturers, Virginia Association of Homebuilders, National Association for Industrial and Office Parks (NAIOP)); and, one at-large representative. Appointments would be made by the Governor and approved by the General Assembly (GA).

The initial five-year CSTA budget would be \$600,000 annually, and the current proposal suggests that these funds would be generated from a variety of sources, including grant awards, contributions from participating universities (anticipated to be about \$60,000 per year), industrial affiliate membership fees (paid by local governments, VDOT, and industry partners, and anticipated to generate \$240,000 per year), revenues from research projects, and two surcharges on permit fees (anticipated to generate \$300,000 per year). Although the draft legislation mentions most of these funding sources, only the surcharges on the permits are described in detail.

The two surcharges in the proposed legislation include:

- Virginia Erosion and Sediment Management Program (VESMP) – a surcharge of up to 10 percent of VESMP permit fees would be assessed. By way of background, the 2016 GA enacted the VESMP (HB 1250 (Wilt)/ SB 673 (Hanger)), combining the existing soil erosion and stormwater management programs into one program, and requiring that any

locality operating an MS4 or Virginia Stormwater Management Program (VSMP) adopt a VESMP by the later of July 1, 2017, or within 30 days after the State Water Control Board adopts VESMP regulations. VESMPs must be approved by the State Water Control Board, and the permit fees will be paid by applicants for land disturbing activities (developers and residents engaged in home remodeling projects, among others). The draft legislation does not specify if such applicants would also be responsible for the 10 percent surcharge fee, or which entity would be responsible for assessing, collecting, and remitting the surcharge. Additionally, because this is a new permit and approvals could occur after July 1, 2017, it is unclear how the surcharge would be assessed if a plan is not in place by the deadline. The surcharge on this permit is expected to generate the vast majority of the funding provided by the surcharges – approximately \$298,000 of the \$300,000.

- MS4 Phase I – a surcharge of up to two percent of the MS4 Phase 1 permit fee would be assessed (there are 11 MS4 Phase I permit holders in Virginia, including Fairfax County). Fairfax County pays an annual \$8,800 MS4 permit maintenance fee, and the VDEQ also requires a \$16,000 application and \$5,000 re-issuance fee for permits. The draft legislation does not specify if the surcharge would be assessed on the maintenance, application, and/or re-issuance fees. This surcharge is only anticipated to generate approximately \$2,000 statewide.

Additionally, as the CSTA is designed to strengthen the evidence base for stormwater management practices, it will be important to better understand how the CSTA's research findings would influence VDEQ's policies (and how those findings may be viewed by the U.S. Environmental Protection Agency, which administers the Clean Water Act), and what opportunities would be available for Fairfax County to comment on any proposed policy changes based on the new stormwater research.

RECOMMENDATION:

Direct staff to support the concept of improving stormwater research in Virginia, and bring relevant bills to the Legislative Committee for consideration during the 2017 GA.

HOUSING—ADDING PROTECTED CLASSES TO THE VIRGINIA FAIR HOUSING LAW**PROPOSAL:**

Initiate legislation to amend the Virginia Fair Housing Law to add sexual orientation (Proposal A) and source of income (Proposal B) as classes protected from discrimination in real estate-related transactions.

SOURCE:

Fairfax County Human Rights Commission
October 7, 2016

BACKGROUND:

The Virginia Fair Housing Law prohibits discriminatory housing practices. Virginia Code § 36-96.4 (A) provides that it is unlawful for any person or entity (including lenders) to discriminate against a person in a protected class in real estate-related transactions, including making or purchasing loans and selling, brokering, insuring, or appraising residential property. Currently, the protected classes are “race, color, religion, national origin, sex, elderliness, familial status, or handicap.”

Both Proposals A and B recommend that the County initiate a bill to add a protected class to Va. Code § 36-96.4 (A). Proposal A seeks to make it unlawful for a person to be discriminated against in a real estate-related transaction because of his or her sexual orientation. Since 2001, when the County first sponsored an initiative in response to a report from the Human Rights Commission on the need to add sexual orientation protections to the Fairfax County Human Rights Ordinance, the County’s legislative program has included support for authority to prohibit discrimination in housing and real estate transactions on the basis of sexual orientation. The County initiatives in the 2001 through 2009 General Assembly sessions unsuccessfully sought authority for Fairfax County to prohibit discrimination in housing, real estate transactions, employment, public accommodations, credit, and education on the basis of sexual orientation. In addition to these County initiatives, the County has supported numerous bills which sought to make discrimination based on sexual orientation illegal. All such bills have been unsuccessful in the General Assembly, as was legislation considered in the 2015 and 2016 GA sessions which would have amended the Virginia Fair Housing Law to include sexual orientation as a protected class.

Proposal B seeks to make it unlawful to discriminate against a person in a real-estate transaction based on a person’s source of income (i.e., housing vouchers). Families using rental assistance programs may face discrimination when searching for housing because owners or landlords may not want to rent housing units to families who plan to use housing vouchers, or other forms of public rental assistance, to pay some or all of the rent. Bills introduced in the 2013 and 2014 General Assembly sessions sought to add “lawful source of income” as a protected class in the Virginia Fair Housing Law declaration of policy (Va. Code 36-96.1). All such bills have been unsuccessful in the General Assembly.

RECOMMENDATION:

For Proposal A, recommend retaining position in the legislative program which supports the addition of sexual orientation as a protected class, including protection from housing discrimination.

For both Proposals A and B, recommend monitoring for introduction of legislation in order to bring related bills to Legislative Committee for consideration by the Board of Supervisors.