

Water in the 2006 Virginia General Assembly



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The 2006 Virginia General Assembly convened January 11 and adjourned March 11, with a reconvened (“veto”) session on April 19. The legislature considered 3287 measures; among the most important business was development of the biennial state budget.

Below is a list of 122 measures related to water resources or to land activities with a relatively direct impact on water. The list does not necessarily include all bills that may ultimately affect water resources. The list was compiled in 2006 from the Legislative Information Service (LIS) Web site, at <http://leg1.state.va.us>. The measures were located in the following LIS subject categories: Conservation; Drainage, Soil Conservation, Sanitation, and Public Facilities Districts; Energy Conservation and Resources; Fisheries and Habitat of Tidal Waters; Game, Inland Fisheries and Boating; Health; Highways, Bridges, and Ferries; Mines and Mining; Waste Disposal; Water and Sewer Systems; and Waters of the State, Ports and Harbors. The list below is organized by these LIS categories (alphabetically), with some additional sub-headings for closely related bills. Unless otherwise noted, two or more bills mentioned as “companion,” “identical,” “incorporated,” or “related” are listed under the same category.

Within each category, bills are listed in order of their **bill number**, using the following abbreviations: **HB** = bill started in House of Delegates; **HJ** = joint resolution started in the House; **SB** = bill started in the Senate; and **SJ** = joint resolution started in the Senate.

Included in the list are LIS summaries of the bills as of February 27, 2006. In some cases an LIS summary has been edited for space, clarity, or emphasis. *Final bills may have had provisions in addition to or different from the summaries as of this date. For a summary of final bills, please see the current LIS Web site.*

For more information on a given bill, visit the LIS Web site or contact your local Delegate or Senator.

Abbreviations for State Agencies and Other Terms

APCB = Virginia Air Pollution Control Board.

CAMR = Federal Clean Air Mercury Rule.

DCR = Virginia Department of Conservation and Recreation.

DEQ = Virginia Department of Environmental Quality.

DGIF = Virginia Department of Game and Inland Fisheries.

EPA = U.S. Environmental Protection Agency.

JLARC = Virginia Joint Legislative Audit and Review Commission.

SCC = State Corporation Commission.

SWCB = Virginia State Water Control Board.
VDOT = Virginia Department of Transportation.
VMRC = Virginia Marine Resources Commission.

BUDGET

- HB 29** Budget Bill. Relating to the appropriation of funds for the 2004-06 biennium.
HB 30 Budget Bill. Appropriations for 2006-2008 biennium.
SB 29 Budget Bill. Relating to the appropriation of funds for the 2004-06 biennium.
SB 30 Budget Bill. Appropriations for 2006-2008 biennium.

CONSERVATION

Air Pollution Bills with Water Impacts

HB 1055 Clean Smokestack Act; phased schedule for electric generating units to reduce emissions.

PASSED. Establishes a phased schedule for all electric generating units in Virginia to reduce their emissions of sulfur dioxide, nitrogen oxide, and mercury. The Air Pollution Control Board (APCB) is charged with promulgating the regulations that require specific numerical reductions in each pollutant. The bill also requires each electric generating unit that is located within 1,000 meters of an occupied dwelling or body of water to complete a modeling analysis assessing the effects of emissions from the facility on the surrounding area. This analysis is to be submitted to the Department of Environmental Quality (DEQ), which shall review each report. The DEQ is required to implement a strategy to achieve reductions in mercury emissions. The strategy is to be submitted by July 1, 2008, to the legislative oversight committees and the APCB. The DEQ also is to conduct an analysis of the issues related to development and implementation of standards and programs to control emissions of carbon dioxide (CO₂) from stationary sources; the analysis is to be submitted to legislative oversight committees and the APCB by December 31, 2008. The companion Senate bill was SB 242, but that bill was incorporated, with changes, into SB 651.

HB 1471 Mercury emission controls. Incorporated into HB 1055. Prohibits the State APCB from imposing mercury-emission controls that (i) are more stringent than the federal Clean Air Mercury Rule or (ii) would be imposed earlier than necessary for Virginia to comply with the federal Rule; also prohibits the APCB from adopting any regulation or agreement that might restrict a facility's (source's) participation in the national mercury-trading program.

SB 242 Clean Smokestack Act. Incorporated into SB 651.

SB 651 Air emissions controls. PASSED. Establishes a phased schedule for all electric-generating units in Virginia to reduce their emissions of sulfur dioxide and nitrogen oxide and charges the APCB with promulgating the regulations that require specific numerical reductions in each pollutant. The bill allows regulated facilities to participate in the U.S. Environmental Protection Agency (EPA) administered cap-and-trade system to the fullest extent permitted by federal law, except that the APCB may prohibit electric-generating facilities located *within a non-attainment area* from meeting their NO_x and SO₂ compliance obligations through the purchase of allowances. This bill requires the APCB to adopt and submit to the EPA the model Clean Air Mercury Rule (CAMR) promulgated by the EPA, including full participation by Virginia electric-generating units in the EPA's national mercury trading program. The bill also requires the APCB to adopt a separate state-specific mercury rule that regulates mercury allowances; the separate state rule must not prohibit the banking or selling of allowances under the CAMR. Under the state specific rule, smaller electric generating units would be able to participate in the trading program. Medium-size systems (American Electric Power) would not be able to demonstrate compliance with the state-specific rule by purchasing credits, but would be allowed to obtain credits from facilities within their system and within 200 km of the Virginia border and to sell excess credits. Large systems (Dominion Resources) would not be able to demonstrate compliance under the state-specific rule by purchasing credits, but they would be able to sell excess credits and would be able to use credits from all Virginia facilities within their system to demonstrate compliance.

Land Conservation Bills

HB 449 Income tax, state; land preservation tax credit. FAILED. Would have expanded the land-preservation tax credit by removing the \$100,000 annual credit limit that a taxpayer may take for qualified donations of conservation easements and putting a cap of \$2.5 million or 50 percent of the fair market value, whichever is less, on each donated easement; however, the credit may exceed \$2.5 million, up to 50 percent of the fair market value of the donated interest, if (i) the taxpayer has submitted two qualified appraisals from two different qualified appraisers, and (ii) the Secretary of Natural Resources, who has the sole discretion, has determined that the qualified donation provides exceptional benefit to the Commonwealth by meeting standards adopted by the Virginia Land Conservation Foundation.

HB 450 Income tax, state; land preservation tax credit. FAILED. Would have removed the \$100,000 annual credit limit that a taxpayer may take for qualified donations of conservation easements and requires the filing of a statement for less-than-fee interest donations that describes how such interest meets the requirements of IRC § 170(h).

HB 533 Income tax, state; land preservation tax credit, value of donation. Incorporated into HB 450. Requires that the value of the donated interest in land (i) be calculated using an amount that does not exceed the assessed value of the property for purposes of local property tax, and (ii) not exceed such assessed value.

HB 814 Uniform Environmental Covenants Act; created. FAILED. Would have authorized the DEQ to enter into environmental covenants with interest holders in real property that restrict the use of the real property.

HB 1328 Real estate; assessment of property devoted to water-dependent use. CARRIED OVER TO 2007. Would establish and define, for special assessment for land preservation, real estate devoted to water-dependent use. Consistent with the Virginia constitutional mandate for establishing and defining such real estate, the bill provides that the General Assembly has determined that the classification of real estate devoted to water-dependent use is in the public interest for the preservation or conservation of such real estate. All provisions applicable to real estate devoted to agricultural, horticultural, forestal, and open-space uses apply equally to real estate devoted to water-dependent use.

HJ 133 Development rights; joint subcommittee to study funding sources for purchase thereof to preserve land. PASSED. Establishes a joint subcommittee to study long-term funding sources for the purchase of development rights to preserve open-space land. Companion bill was SJ 94.

SB 93 Land Conservation Incentives Act; tax credit. FAILED. Would have provided an aggregate limit of \$600,000 in tax credit for each parcel of land donated under the Virginia Land Conservation Incentives Act of 1999, which limit includes any transfer of unused tax credits. Under the bill, the value of any improvement to land shall not be considered for purposes of valuing land donations for tax credit. The fair market of the land must not exceed the highest and best use for which the property is adaptable, and must be supported by market evidence. The bill would restrict tax credit to land or interest in land that meets guidelines of objective criteria established by the Virginia Land Conservation Foundation or that the Secretary of Natural Resources has otherwise determined provides exceptional benefit to the Commonwealth. The bill would permit only one transfer of unused tax credits associated with donated property and would prohibit nonprofit organizations from transferring any tax credit, and it would allow as a credit against the estate tax any unused credit held by the decedent of the estate at the time of his death. Land dedicated as open space within a residential or commercial development; as open space in any real estate development plan; or dedicated to fulfill density requirements to obtain approvals for zoning, subdivision, site plan, or building permits would not qualify for purposes of the tax credit. The bill provides that no more than one donation can be made from the same parcel of land during a 15-year period, unless there is no affiliation between the persons or entities who already have been allowed credit with respect to the parcel and the persons or entities seeking credit. In cases in which the fair market value of a donation of property is being contested, the burden of proof would be on the taxpayer to show there is a reasonable probability that the property is physically adaptable for the highest and best use that is proposed in the appraisal and that there is a need or demand for such use in the reasonably near future.

SB 238 Land Conservation Fund; unrestricted funds to be allocated equally for certain uses.

FAILED. Would have changed the formula for allocating moneys from the Virginia Land Conservation Fund. Currently, 75 percent is allocated to four uses, with farmlands and forest preservation combined as one use and 25 percent is transferred to the Open-Space Lands Preservation Trust Fund. Under this bill, 90 percent would be allocated to five uses, with farmlands preservation and forest preservation being separate categories, and 10 percent would be transferred to the Open-Space Fund.

SB 243 Vehicle registration fees; additional fee to support Land Conservation Fund. CARRIED OVER TO 2007. Would impose an additional fee of \$1 per year on motor vehicle registrations, with the proceeds to be used to support the Virginia Land Conservation Fund.

SB 358 Real estate tax; exemption in redevelopment or conservation areas, etc. PASSED.

Authorizes localities to provide for partial exemption from taxation of (i) new structures located in redevelopment or conservation areas or rehabilitation districts or (ii) other improvements to real estate located in redevelopment or conservation areas or rehabilitation districts. The bill is contingent on a constitutional amendment authorizing the exemption.

SB 403 Land Conservation Incentives Act; tax credit. Incorporated into SB 93. Provides an aggregate limit of \$600,000 in tax credit for each parcel of land donated under the Virginia Land Conservation Incentives Act of 1999, which limit includes any transfer of unused tax credits. The bill provides that no more than one donation can be made from the same parcel of land during a 15-year period, unless there is no affiliation between the persons or entities who already have been allowed credit with respect to the parcel and the persons or entities seeking credit. The bill also includes provisions requiring donations after January 1, 2007, to be examined by a reviewer licensed by the Department of Taxation.

SB 409 Land Conservation Foundation; authorized to award moneys from Fund for purchases.

PASSED. Authorizes the Virginia Land Conservation Foundation to award moneys from the Virginia Land Conservation Fund for purchase of development rights programs.

Other Conservation Bills

HB 93 Environmental site assessments in subdivision and zoning ordinances. PASSED. Clarifies the authority of local governing bodies to adopt ordinances to require environmental site assessments. Additional provisions allow localities to require disclosure and remediation of contamination prior to approval of subdivision and development plans. See similar SB 224.

HB 148 Stormwater management program; includes enlargement, improvement and maintenance of dams. PASSED. Provides that income derived from stormwater-control service charges shall be dedicated special revenue and may be used only to pay or recover costs for specified purposes, including the improvement or maintenance of dams, whether publicly or privately owned, that serve to control stormwater.

HB 268 Stormwater management program; includes maintenance of dams. Incorporated into HB 148.

HB 678 Publications tax; revenue shall be deposited into Water Quality Improvement Fund. FAILED. Would have imposed a tax on newspapers, magazines, newsletters, or other publications at the rate of \$0.01 on every such publication delivered and sold in Virginia, with revenue generated to be deposited into the Water Quality Improvement Fund.

HB 804 Recreational Facilities Authority; reduces number of members that constitutes quorum. PASSED.

Reduces the number of members that constitutes a quorum for the Virginia Recreational Facilities Authority from 10 to seven. [One function of this Authority is to conservation of scenic and natural areas along the Roanoke River.]

HB 1454 Wetlands and stream restoration; companies to file erosion & sediment control specifications. PASSED.

Allows any person who has created and operates an approved wetlands mitigation bank in multiple jurisdictions to file annually erosion and sediment control specifications for wetlands mitigation projects with the Virginia Soil and Water Conservation Board. Projects that are not covered by general specifications will have to comply with the local erosion and sediment control program. This bill will not become effective unless a specific appropriation has been approved in the general appropriation act to support this activity.

- HJ 107 Urban Best Management Practices Cost-Share & Tax Credit Program; DOC to study, report. FAILED.** Would have requested the Department of Conservation and Recreation (DCR) to study whether an *Urban* Best Management Practices Cost-Share and Tax Credit Program, modeled after the *Agricultural* Best Management Practices Cost-Share and Tax Credit Program, would be beneficial and an economically efficient method for meeting the Chesapeake Bay Agreement goals to reduce nutrients and sediments.
- SB 52 Occoneechee State Park; lease extended. PASSED.** Provides a two-year extension for the authority granted to the DCR to amend a lease with the Secretary of the Army for the purpose of providing additional facilities (not to be operated by the DCR) at Occoneechee State Park in Mecklenberg County. [The park is located on the John Kerr Reservoir/Buggs Island Lake, on the Roanoke River.]
- SB 224 Environmental site assessments; localities to adopt ordinances requiring. PASSED.** Allows local subdivision or zoning ordinances to include provisions for requiring Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development, and Phase II environmental site assessments based on findings in the Phase I assessment. Such ordinances may also require disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans. The bill also provides that the disclosure statement provided by the owner of residential real property to a purchaser disclose adverse environmental site conditions. See similar HB 93.
- SB 236 Trees; certain local government ordinances requiring preservation thereof during development process. FAILED.** Would have allowed certain Northern Virginia localities to require development sites to meet tree canopy requirements in proportion to predevelopment canopy and to increase the amount of tree canopy required 20 years after development on residential sites.
- SB 274 Stormwater management; certain localities required to adopt program related thereto. PASSED.** Requires localities located in Tidewater (as defined by the Chesapeake Bay Preservation Act), and those that have a municipal separate storm sewer system (MS4) (under federal Clean Water Act regulations), to adopt a local stormwater management program between 12 and 18 months after the effective date of establishment by the Virginia Soil and Water Conservation Board of local program criteria and procedures (the bill *allows* other localities to do the same); under current law these localities are to adopt a program by July 1, 2006. The bill also increases the maximum fine for violation of the provisions of the stormwater law from \$25,000 to \$32,500.
- SB 413 Recordation tax; collection to be transferred to Water Quality Improvement Fund. CARRIED OVER TO 2007.** Provides that \$100 million of recordation taxes collected each year shall be transferred to the Virginia Water Quality Improvement Fund.
- SB 644 Water Quality Improvement Fund; disbursement of grant moneys. PASSED.** Allows new or expanding publicly owned treatment works that are not defined as significant dischargers, but are subject to the State Water Control Board's (SWCB) new nutrient control requirements and will have to install nutrient-removal technology, similar to the significant dischargers, to apply for matching grant moneys from the Water Quality Improvement Fund; currently, only those plants that are defined as significant dischargers are eligible to receive grants from the Fund. Other provisions address the uses to which funds can be applied.
- SB 670 Residential Property Disclosure Act; disclosure of resource protection areas. PASSED.** Requires the owner of residential real property located in any resource protection areas (and other environmentally protected zones subject to governmental regulation) to furnish to a purchaser a written disclosure stating that such property is located in such an area.

DRAINAGE, SOIL CONSERVATION, SANITATION, AND PUBLIC FACILITIES DISTRICTS

- HB 684 Erosion & Sediment Control & Stormwater Management Acts; clarifies acceptable flow rates. PASSED.** Defines terms in the Erosion and Sediment Control and Stormwater Management Acts to

clarify what are acceptable flow rates from storm runoff at sites where land development projects are occurring.

ENERGY

HB 1153 Virginia Energy Plan; created. FAILED. Would have established an energy policy of the Commonwealth and directed the Division of Energy of the Department of Mines, Minerals and Energy, in consultation with the State Corporation Commission, DEQ, and Virginia Center for Coal and Energy Research, to prepare a comprehensive Virginia Energy Plan to implement the policy. See related SB 262.

HB 1292 Virginia Energy Plan; created. Incorporated into nearly identical HB 1153.

SB 262 Virginia Energy Plan; created. PASSED. Establishes a state energy policy and directs the Department of Mines, Minerals and Energy, in consultation with the State Corporation Commission (SCC), DEQ, and the Virginia Center for Coal and Energy Research, to prepare, by July 1, 2007, a 10-year comprehensive Virginia Energy Plan to implement the state policy. The bill included several other important provisions, as well; please see the LIS Web site for the final version, following recommendations from the governor.

SJ 80 Study of a comprehensive energy plan. Incorporated into SB 262. Requests the Secretary of Natural Resources to study the development of a comprehensive energy plan for the Commonwealth.

FISHERIES AND HABITAT OF TIDAL WATERS

Menhaden-related Bills

HB 252 Menhaden fishery; Marine Resources Commission may adopt regulations governing. FAILED.

Would have directed the Virginia Marine Resources Commission (VMRC) to adopt regulations to implement the Atlantic States Marine Fisheries Commission Fishery Management Plan for Atlantic Menhaden, stipulated that no regulation on menhaden fishing be more restrictive than that plan, required any moratorium on the fishery to be subject to legislative review, and repealed the Governor's authority to implement menhaden-management measures by proclamation.

HB 749 Menhaden; limits on amount harvested annually. FAILED. Would have limited to *105,783 metric tons* the amount of menhaden that could be harvested annually in the Chesapeake Bay and its tributaries from 2006 through 2010 (in accordance with the cap placed on the fishery by the Atlantic States Marine Fisheries Commission in its Atlantic Menhaden Fishery Management Plan). The companion Senate Bill was SB 84.

HB 1045 Menhaden fishing; prohibited in certain areas. FAILED. Would have placed an annual limit of *131,000 metric tons* on the taking of menhaden by purse nets in the Chesapeake Bay, directed the Secretary of Natural Resources to develop a system for monitoring the catch and implementing the limit, and limited commercial menhaden fishing on weekend and holidays.

SB 84 Menhaden; limits on amount harvested annually. FAILED. See HB 749.

Other Tidal Waters Bills

HB 402 Invasive Species Council. FAILED. Would have extended the Virginia Invasive Species Council's "sunset date" (the date on which the Council ceases to exist) from July 1, 2006, to July 1, 2011.

HB 435 Horseshoe crabs; places a moratorium on landings and importation thereof. FAILED. Would have placed a moratorium on landings and importation of Horseshoe Crabs until nationwide populations of Horseshoe Crabs and Red Knots (a bird that feeds on Horseshoe Crab eggs) reached specified levels.

HB 651 Federal Aid in Sport Fish Restoration Act; gives authority to accept federal grant money. PASSED. Gives the VMRC the authority to accept federal grant money from the federal Wallop-Breaux Fund. See similar HB 981, in the "Game, Inland Fisheries, and Boating" section.

HB 652 Oysters; suspends imposition of inspection and replenishment taxes. PASSED. Requires oyster taxes to be paid to the VMRC and put into the Public Oyster Rocks Replenishment Fund.

HB 940 Rappahannock River; Marine Resources Commission to convey fee simple title therein.

PASSED. Authorizes the VMRC to convey to a private party approximately 1.2 acres in the Rappahannock River.

SB 2 Crab pot buoys and floats; regulations. FAILED. Requires the VMRC to set regulations for crab pot buoys and floats to be marked with reflective material for visibility at night.

SB 634 Subaqueous permits for piers and platforms. PASSED. Exempts the following from VMRC permit requirements: finger piers of up to five feet in width, L or T head platforms and appurtenant floating dock platforms of up to 400 square feet, and open-sided shelter roofs and gazebo-type platforms if allowed by local ordinances.

GAME, INLAND FISHERIES, AND BOATING

Bills Relating to the Game and Inland Fisheries Board

HB 362 Game and Inland Fisheries, Board of; duties. PASSED. Requires the Board of Game and Inland Fisheries to develop a Governance Manual that sets forth rules and procedures for the conduct of the Board's business; delineates the duties of the chairman of the Board; requires the Board to ensure that the Auditor of Public Accounts, or any agent of the Auditor, conducts an annual audit of the accounts and transactions of the Board; requires the Board to elect a new chairman and vice-chairman each year; and requires that the Director of the Department of Game and Inland Fisheries (DGIF) be subject to confirmation and reconfirmation by the General Assembly every four years. Companion Senate bill was SB 564.

HB 938 Game and Inland Fisheries; Board of; changes from a supervisory board to a policy board. Incorporated into HB 362. Changes the Board from a supervisory board to a policy board, and gives the governor—not the Board—the authority to appoint the director of the DGIF.

HB 979 Executive branch supervisory boards; Attorney General to meet with members to explain duties, etc. Incorporated into HB 362. Requires the Attorney General to meet with all appointed members of executive branch boards, commissions, or councils, and explain to them their duties, responsibilities, and potential liabilities; requires the Board of Game and Inland Fisheries to develop a governance manual setting forth rules and procedures for the conduct of the Board's business; delineates the duties of the chairman of the Board, and requires an annual audit of DGIF's operations. The companion Senate bill was SB 564.

HB 1130 Game and Inland Fisheries, Board of. Incorporated into nearly identical HB 362.

HB 1131 Game and Inland Fisheries, Board of; annual audit. Incorporated into HB 362. Requires the Auditor of Public Accounts to conduct an annual audit of the accounts of the Board.

SB 564 Game and Inland Fisheries, Board of; duties. PASSED. See HB 979.

Boating Safety Bills

HB 870 Boating safety course; required if convicted of violating boating law. PASSED. Requires any person convicted of violating a boating law that imposes a penalty of a Class 3 misdemeanor or greater to pass a National Association of State Boating Law Administrators approved boating safety course, accepted by the DGIF. This bill incorporated identical HB 1075.

HB 872 Mandatory boating safety course. FAILED. Would have made it a Class 4 misdemeanor for anyone to operate a motorboat without having completed an approved boating safety education course.

HB 1075 Boating safety course; required if convicted of violating boating law. Incorporated into identical HB 870.

HB 1076 Towing persons on the water; adds inflatable tube to list of devices used therefor. FAILED. Would have required vessels towing persons on water skis or other devices to carry an observer and required persons being towed to wear a life jacket.

HB 1078 Motorboats; sets maximum speed limit on Smith Mountain Lake. CARRIED OVER TO 2007. Would establish a maximum speed limit of 35 miles per hour on Smith Mountain Lake between sunset and sunrise, with violators subject to a fine of up to \$250.

HB 1204 DUI of alcohol or drugs [including while boating]; term inference replaces presumption relating to alleged offense. CARRIED OVER TO 2007. Would change the term "rebuttable

presumption" to "inference" in DUI, drunk boating, and commercial DUI statutes. The companion Senate bill is SB 471.

SB 471 DUI of alcohol or drugs [including while boating]. CARRIED OVER TO 2007. See HB 1204.

SB 528 Boating; requires safety course and sets maximum speed limit for Smith Mountain Lake CARRIED OVER TO 2007. Would make it a Class 4 misdemeanor for anyone to operate a motorboat on the waters of Smith Mountain Lake without having successfully completed an approved boating safety education course (this provision phased in by July 2015); alternative means of compliance are exemptions are identified. The bill also repeals the current law that requires at least one game warden to patrol Smith Mountain Lake during the boating season. *As introduced*, the bill also set a maximum speed limit of 25 miles per hour on Smith Mountain Lake between sunset and sunrise, this provision was removed in the passed version.

Other Game, Inland Fisheries, and Boating Bills

HB 5 Trout fishing; Department of Game and Inland Fisheries to issue special permits for handicapped. PASSED. Authorizes the DGIF to issue permits to organized groups of physically or mentally handicapped persons to fish on the second Saturday in May in designated waters stocked with trout, without having to obtain individual licenses. This companion Senate bill is SB 12.

HB 6 Military personnel; free hunting and fishing licenses. FAILED. Would have allowed every state resident who has served in an armed conflict or peacekeeping mission after September 11, 2001, to obtain all required DGIF hunting and fishing licenses (except special lifetime licenses) at no charge for one year.

HB 327 Personal property tax; classification of watercraft used for business purposes. PASSED.

Creates separate classes of personal property for rate purposes of watercraft based on the weight of the watercraft and whether it is used for business purposes.

HB 575 Trapping; exempts trappers using body grip traps that are completely submerged. PASSED.

Authorizes the director of the DGIF to allow governmental employees and persons holding a commercial Nuisance Annual Permit to visit conibear-style traps *that are completely submerged* once every 72 hours (rather than the currently required once daily); private trappers would continue to be required to visit such traps every day. The companion Senate bill is SB 83.

HB 939 Game wardens; Director of Department of Game and Inland Fisheries given power to appoint. FAILED. Would have removed the requirement that the director of the DGIF *must* hire from within the ranks of wardens if he is seeking to fill a law-enforcement position above the rank of game warden.

HB 981 Wildlife and fish restoration; Department of Game & Inland Fisheries to accept federal grant money. PASSED. Authorizes the DGIF to accept federal grant money related to the Pittman-Robinson Act (wildlife restoration) and the Wallop-Breaux Act (sport fish restoration). The Office of the Inspector General of the U.S. Department of the Interior has that its audit of these federal funds found that Virginia does not have the statutory authority within the *Code of Virginia* to accept these funds. See similar HB 651, in the "Fisheries and Habitat of Tidal Waters" section.

HB 1420 Compensation Board; considerations for fixing salaries and staffing levels for certain sheriffs. CARRIED OVER TO 2007. Would require the Compensation Board to include in its allocation formula the effect of additional enforcement and safety needs of localities that (i) have bodies of water of 20,000 acres or more located wholly or partially within their jurisdiction and (ii) provide boating enforcement pursuant to a cooperative enforcement agreement with the DGIF.

SB 12 Trout fishing; Department of Game and Inland Fisheries to issue special permits for handicapped. PASSED. See identical HB 5.

SB 83 Trapping; exempts trappers using body grip traps that are completely submerged. PASSED. See HB 575.

SB 678 Motor fuels taxes; elimination of refunds for taxes on watercraft fuel. FAILED. Would have eliminated the current refund of taxes on fuels used in operating recreational watercraft; revenues attributable to the repeal of the refund would have been deposited into the Game Protection Fund to be used for the benefit of the boating public.

SB 695 Boats; criterion for local ordinances. CARRIED OVER TO 2007. Would provide that no locality or other political subdivision shall adopt or enforce any watercraft-operation ordinance, resolution, or motion other than those expressly authorized by statute.

HEALTH

HB 688 Sewage sludge; restrictions on land application thereof. FAILED. Would have prohibited land application of sewage sludge (or “biosolids”) beginning January 1, 2007, unless the sewage sludge was applied in the same locality in which it is generated; required state departments that have oversight of the spreading of sewage sludge (the Department of Health and the DEQ) to certify that the sewage sludge was being applied in a manner that protects human health and the environment; and required the DCR to certify that nutrient-management plans for applying sewage sludge protect water quality.

HB 690 Sewage sludge; limit on storage time prior to land application. FAILED. Would have prohibited sewage sludge (or “biosolids”) from being stored for more than three days at a land-application site.

HB 1134 Sewage sludge; regulations establishing fee imposed on permit holders. PASSED. As introduced, the bill would have required the Board of Health to promulgate regulations establishing a fee to be imposed upon holders of permits to land-apply treated sewage sludge (“biosolids”), *in an amount sufficient to pay* for the administration and management of the Department of Health's sewage sludge program. As passed, the bill requires the Board to impose a fee of \$5,000 to apply for a permit and \$1,000 for a permit modification. Currently, the Board may adopt regulations requiring permittees to pay a fee not to exceed \$2,500.

HIGHWAYS, BRIDGES, AND FERRIES

HB 640 Low-water bridge; Dickenson County to transfer ownership thereof in Town of Pound to VDOT. FAILED. Would have required Dickenson County to transfer ownership of the low-water bridge in the Town of Pound to the Virginia Department of Transportation (VDOT).

HB 662 Chesapeake Bay Bridge-Tunnel Commission; authorization from GA required before undertaking construction, etc. CARRIED OVER TO 2007. Would require the Chesapeake Bay Bridge and Tunnel Commission to obtain authorization from the General Assembly before undertaking construction and operation of any tunnel paralleling an existing tunnel or making provision for financing such a project.

HB 663 Chesapeake Bay Bridge & Tunnel Commission; may not issue any bonds not redeemable before maturity. CARRIED OVER TO 2007. Would provide that the Commission shall not issue any bonds after June 30, 2006, that are not redeemable before maturity.

HJ 102 Chesapeake Bay Bridge-Tunnel; joint subcommittee to study selling or leasing to private operator. CARRIED OVER TO 2007. Would establish a joint subcommittee to study the desirability and feasibility of selling or leasing the Chesapeake Bay Bridge-Tunnel to a private operator.

SB 192 Chesapeake Bay Bridge and Tunnel Commission; change in composition and other provisions. FAILED. Would have established the Hampton Roads Bridge and Tunnel Authority and transfers from VDOT to the Authority control of and responsibility for seven facilities in Hampton Roads. The bill allows the Authority to impose and collect tolls for the use of these facilities and provides for the eventual transfer to the Authority control of and responsibility for the Chesapeake Bay Bridge-Tunnel as well.

SB 512 Low-water bridge; VDOT to reimburse Dickenson County for expenses in reconstructing thereof. FAILED. Would have required VDOT to reimburse Dickenson County for expenses incurred in reconstructing the low-water bridge in the Town of Pound.

WASTE DISPOSAL

HB 421 Solid waste management; permits for proposed facilities subject to analysis. PASSED. Requires that permits for proposed solid waste management facilities or facility expansions be subject to analysis by the DEQ for potential human health, environmental, transportation infrastructure,

and transportation safety impacts and needs, including evaluation of comments by the host local government, other local governments, and interested persons. Applications for such permits must include certification from the locality that the new or expanded facility is consistent with the regional solid waste management plan or that the plan is in the process of being revised.

SB 82 Solid waste containers; requirements for carrying nonhazardous waste on State waters.

PASSED. Establishes specifications for the structural integrity of containers carrying non-hazardous solid waste on vessels operating in Virginia waters, including a specific water-tightness standard.

SB 106 Waste discharge permits; consent of local governing body required before Water Control Board issues. PASSED.

In localities where a local watershed-protection district was established prior to January 1, 2006, requires that, before the SWCB approves a new or modified stormwater-discharge permit from a municipal waste landfill or related facility into the local district, the local governing body must confirm that the proposed discharge is consistent with the local watershed-protection district ordinance.

SJ 57 Camden County, N.C. landfills; request to Congress. FAILED.

Would have memorialized Congress to take action to prevent contamination of the waters of the United States and degradation of the Great Dismal Swamp National Wildlife Refuge by a landfill proposed for Camden County, North Carolina.

WATER AND SEWER SYSTEMS

HB 129 Public health; Board of Health may declare area hazardous thereto and require sewer services. CARRIED OVER TO 2007.

Would allow the Board to declare an area a public-health hazard, and require that sewer service be offered, if sewer service is available within one-half mile and sufficient capacity exists.

HB 283 Water and sewer services; fees and charges. FAILED.

Would have clarified that water services are treated the same as sewer services with regard to fees and charges.

HB 411 Reducing nutrient discharges; sewage treatment facilities to meet nutrient loading allocation. FAILED.

Would have required every publicly owned sewage-treatment facility serving 55,000 or more people to meet its nitrogen- and phosphorus-discharge limits by July 1, 2010, either by installing nutrient-treatment technology or by participating in the state's nutrient-credit exchange program.

HB 439 Sewage treatment facilities; establishing a governing board. PASSED.

Requires that certain entities that provide sewer services to residents of Virginia and to residents of another state be managed by a governing board that is comprised of an equal number of residents of Virginia and of the other state. The requirement applies to such entities that operate a sewage-treatment facility located in Virginia that has a capacity of at least five million gallons per day and was financed through the Virginia Revolving Loan Fund. The companion Senate bill is SB 507.

HB 535 Water and sewer liens; Manassas Park authorized to provide charges for service. PASSED.

Adds Manassas Park to those localities that have authority to provide that charges for water or sewer service may be a lien on the real estate served. The companion Senate bill is SB 479.

HB 1318 Subdivisions; adequate water resources. FAILED.

Would have allowed localities to adopt provisions allowing denial or delay of subdivision approval, issuance of a building permit, or a rezoning request if the locality demonstrated that public facilities related to the provision of water were inadequate.

HB 1505 Coalfield Economic Development Authority tax; to include improvement of water & sewer systems. PASSED.

Clarifies that funds generated from this tax and deposited in the Coal and Gas Road Improvement Fund may be used for improvement of existing water and sewer systems and lines. See also very similar SB 506.

HB 1540 Attempt to poison; waterworks. PASSED.

Provides that any person who administers or attempts to administer any poison or destructive substance in a waterworks with the intent to kill or injure another person is guilty of a Class 3 felony.

HJ 101 Biosolids; study of impact on water quality. FAILED.

Would have requested the DCR and DEQ to study the impact of the land application of biosolids on the quality of Virginia's waters.

SB 164 Waste and water authorities; operating capital. PASSED. Clarifies the term “cost,” regarding operating capital, in law regarding the powers of waste and water authorities.

SB 479 Water and sewer liens; Manassas Park authorized to provide charges for service. PASSED. See HB 535.

SB 506 Coal and gas road improvement tax; localities to use revenue to repair existing water & sewer lines. PASSED. Allows localities to use revenue from their Coal and Gas Road Improvement Fund to repair or enhance existing water and sewer systems and lines. See also very similar HB 1505.

SB 507 Sewage treatment facilities; establishing a governing board. PASSED. See HB 439.

SB 626 Water Quality Improvement Fund; revenues from lodging shall be deposited thereof.

CARRIED OVER TO 2007. Would establish a \$1 per day fee on hotel, motel, and similar rooms; the revenues, plus \$40 million annually in recordation tax revenues, would go to the Virginia Water Quality Improvement Fund.

SJ 82 Water systems; JLARC to study small community public water systems. PASSED. Directs the Joint Legislative Audit and Review Commission (JLARC) to study small community water systems in Virginia to determine whether the needs of Virginia's citizens are being met through the existing regulatory scheme with regard to water quality and to rates.

WATERS OF THE STATE, PORTS AND HARBORS

HB 104 Meherrin River; portion in Brunswick County designated as state scenic river. PASSED.

Designates the 37-mile segment of the Meherrin River within Brunswick County as a state scenic river. The companion Senate bill is SB 527.

HB 524 Criminal history record information; dissemination thereof to shipyards. PASSED. Provides for the dissemination of criminal-history record information to shipyards for the purpose of screening potential employees and other personnel seeking access to shipyard facilities.

HB 552 Regional water supply plans; town with adjacent county. PASSED. Allows a town to enter into a regional water supply plan with an adjacent county.

HB 596 Flood Prevention and Protection Assistance Fund. PASSED. Reconstitutes the current Flood Prevention and Protection Assistance Fund into the new Dam Safety, Flood Prevention, and Protection Assistance Fund. The new fund will be used for loans and grants to local governments and loans to private entities to finance projects to prevent, reduce, or mitigate damages caused by flooding, to upgrade dams or impounding structures, and to fund flood prevention studies. The Virginia Resources Authority would administer and manage the fund. The language establishing the Fund is modeled after language creating the Virginia Resources Authority, the Virginia Water Facilities Revolving Fund, and the Virginia Water Supply Revolving Fund. The companion Senate bill is SB 624.

HB 597 Dam safety; penalties. PASSED. Provides the Virginia Soil and Water Conservation Board and the DCR with enforcement tools regarding the safety of Virginia's dams, and includes due process procedures to protect dam owners. The bill imposes a Class 3 misdemeanor penalty on an owner who knowingly operates, constructs, or alters a dam without the approval of the Department; or who obstructs, hinders, or prevents the Virginia Soil and Water Conservation Board, or its agents from performing their dam safety duties. The Board also has the option of imposing civil penalties, not to exceed \$25,000, for violations of the Dam Safety Act. Money collected from civil penalties will be deposited in the Flood Prevention and Protection Assistance Fund.

HB 1150 Chesapeake Bay Clean-up Authority and Chesapeake Bay Clean-up and Oversight Act. PASSED. As introduced, the bill would have established the Virginia Chesapeake Bay Clean-up Authority to develop, through the DEQ, the Chesapeake Bay Clean-up Strategic Plan and to oversee the execution of this plan by the DEQ; and would have created the Chesapeake Bay Clean-up Fund to be administered by the Virginia Resources Authority and used to fund the strategic clean-up plan. A substitute bill, however, eliminated funding provisions. The version still requires the Secretary of Natural Resources to develop a strategic clean-up plan for the Chesapeake Bay and other Virginia's waters designated as impaired.

HB 1185 Agricultural facilities; exemption from water-use restrictions. PASSED. Prohibits the requirement of a Virginia Water Protection Permit for privately owned and retained water located outside the path of regularly flowing surface water, or for any water withdrawal for livestock watering or crop production within maximum withdrawal limits to be set by the SWCB.

HB 1186 Legislative appointees; designates authorities to appoint legislators who serve on certain boards. PASSED. Designates legislative appointing authorities to appoint legislators who serve on the Tourist Train Development Authority, the Chippokes Plantation Farm Foundation Board, and the Potomac River Basin Commission; currently, the governor makes these appointments. The companion Senate bill is SB 330.

HB 1193 Chesapeake Bay Preservation; impact fee authority to localities with designated areas. FAILED.

Would have granted impact-fee authority to localities with designated Chesapeake Bay Preservation areas. The authority would have included fees for roads, schools, and public safety. "Impact fee" was defined as a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of public facilities necessitated by and attributable to the new development.

HB 1457 Impaired waters; attainability of meeting water-quality standards. PASSED. As introduced, the bill would have *required* the SWCB, before developing or implementing a Total Maximum Daily Load (TMDL) for an impaired water, to evaluate the attainability of meeting water-quality standards in the impaired water, if the costs of improving the water quality were greater than the benefits to be derived. As passed, the bill allows an aggrieved party to conduct a use attainability analysis of whether attaining the designated use in an impaired water is feasible. This analysis would be reviewed by the SWCB, which would then determine whether to delay development or implementation of a TMDL.

HB 1496 Nontidal wetlands permits; eliminates requirement to obtain permits from state & federal government. CARRIED OVER TO 2007. Would eliminate the requirement to obtain both state and federal permits for impacts to nontidal wetlands. The person would only have to obtain *either* the State Programmatic General Permit or a federal permit, depending on the type of project.

HB 1519 Perennial streams; certain localities to use U.S. Geological Survey's maps designating water bodies. FAILED. Would have required localities under the jurisdiction of the Virginia Chesapeake Bay Preservation Act to use the U.S. Geological Survey's designation of water bodies with perennial flow as the basis for delineating required components of Resource Protection Areas.

HB 1533 Elizabeth River; governor to convey subaqueous lands in City of Norfolk. PASSED.

Authorizes the governor to convey about 2.4 acres of subaqueous lands in the Elizabeth River in Norfolk to Moon of Norfolk, L.L.C.

HJ 134 Perennial flow determination; DCR to study development, etc., thereof. FAILED. Would have requested the DCR to study the development and implementation of the perennial-flow determination required by regulations implementing the Virginia Chesapeake Bay Preservation Act.

SB 173 Port Authority; allows police thereof to provide security for private terminal operators. PASSED.

Allows the Authority to enter into agreements with private terminal operators to permit special police officers to provide and enforce safety and security on the operator's property.

SB 330 Legislative appointees on certain boards. PASSED. See HB 1186.

SB 527 Meherrin River; designation as state scenic river. PASSED. See HB 104.

SB 624 Flood Prevention and Protection Assistance Fund. PASSED. See HB 596.