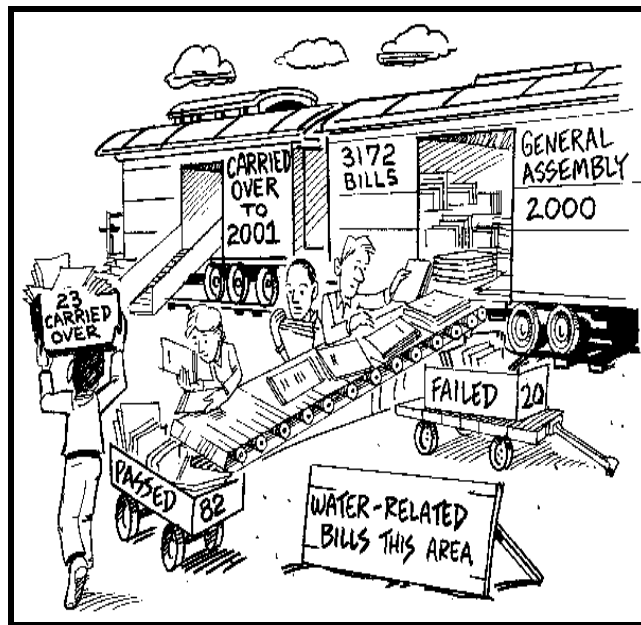


Water in the 2000 Virginia General Assembly

(Originally published in the April 2000 issue of *Virginia Water Central*, available online at <http://www.vwrrc.vt.edu/watercentral.html>.)



The Virginia General Assembly held its 2000 session from January 12 to March 10. Lawmakers considered 3,172 bills and resolutions (compared to 2,735 measures considered in 1999). Of these, 125 were water-related; that is, their provisions would have an impact on water resources or on water-related activities.

To identify these water-related bills, *Water Central* used the Internet site of the General Assembly's Legislative Information Service (<http://leg1.state.va.us/>). Using the system's subject index, we checked the following nine categories:

- 1 = Waters of the State, Ports and Harbors;
- 2 = Water and Sewer Systems;
- 3 = Fisheries and Habitat of Tidal Waters;
- 4 = Game, Inland Fisheries, and Boating;
- 5 = Drainage, Soil Conservation, Sanitation, and Public Facilities Districts;
- 6 = Health;
- 7 = Conservation;
- 8 = Mines and Mining;
- 9 = Waste Disposal.

Our list includes all bills found under categories 1, 2, and 3. For categories 4—9, we include only those bills that appear, from the bill summary, to have a *potentially significant* impact on water resources or their management. For example, some solid-waste bills are included, but others are omitted because their provisions would affect water resources only marginally. Most land-conservation measures are included, however, because land use directly impacts water resources.

On the bottom of page 5 we list passed bills for which the governor subsequently recommended changes (often minor). None in our list were vetoed. The legislature considered the governor's recommended changes at its reconvened session (the "veto session") on April 19.

Following the bill inventory is a Feature Article from the June 2000 *Water Central* examining bills that received the attention of various water-resource and public-policy professionals.

2000 Bill Inventory

The measures are grouped, first, by whether they passed, failed, or were carried over to the 2001 session; and, second, by the Virginia Legislative Information Service's indexing categories searched for this article. If a measure was found in more than one category, we list it in the category that seems most descriptive. The measures are numbered consecutively here to facilitate cross-referencing; those numbers have no *legislative* significance.

Abbreviations used in the list are as follows: **HB** = house bill (introduced in the House first); **HJ** = house joint resolution; **SB** = senate bill (introduced in the Senate first); **SJ** = senate joint resolution.

The descriptions of the measures are based on summaries by the Legislative Information Service. The use of “**etc.**” indicates that we have omitted a substantial portion of the original summary, due to space. *Italic* type within the summaries indicates emphasis added by *Water Central*.

P A S S E D

Budget

1. **HB30 Budget bill:** Appropriations for the 2000-02 biennium; includes over 60 references to “water.”

Waters of the State, Ports and Harbors

2. **HB48 Oyster grounds:** Provides that approximately five acres of land located within the Elizabeth River (city of Norfolk) shall no longer be considered part of the state's natural oyster grounds.
3. **HB404 Toxic substances in state waters:** Increases the toxic-substance monitoring and reporting requirements for the Water Control Board, Dept. of Environmental Quality, and Dept. of Health; **etc.**
4. **HB419 Local wetlands boards:** Allows members of wetlands boards in James City County to serve on local boards created to implement provisions of the Chesapeake Bay Preservation Act; **etc.**
5. **HB625 Lake level contingency plans:** Requires that permits issued for surface-water impoundments used for cooling power generators include a contingency plan for low lake levels during drought conditions.
6. **HB667 Impact of piers on shellfish grounds:** Allows construction of non-commercial piers by riparian landowners; eliminates a 12-month waiting period for encroachment on leased shellfish grounds if the Marine Resources Commissioner finds that the encroachment will not harm the grounds; **etc.**
7. **HB737 Declaration of estimated tax; merchant seamen:** Adds merchant seamen to those individuals allowed to file this declaration on or before January 15 of the succeeding year; **etc.**
8. **HB804 Va. Resources Authority; members:** Enlarges the Board of Directors of the Va. Resources Authority from nine to 11 members, adding the director of the Dept. of Aviation or his designee and one citizen appointed by the governor. This authority's purpose is to finance projects related to water supplies, sewer systems, drainage systems, solid-waste management, rail transportation, and—with the passage this session of **SB715**—major-league baseball stadiums.
9. **HB876 Federal dam safety inspection reports:** Removes from the *Va. Code* references to obsolete U.S. Army Corps of Engineers' dam-safety inspection reports.
10. **HB1095 Lease of Smith Mountain Lake:** Authorizes the Dept. of Conservation and Recreation to lease a parcel of land on Smith Mountain Lake to Franklin County for public recreational use; **etc.**
11. **HB1170 Wetlands:** Requires a Virginia Water Protection Permit from the Water Control Board for certain activities in *nontidal* wetlands; the Board is directed to use a regulatory approach to achieve no net *loss* of wetlands and a voluntary approach to achieve a net *gain*; the bill clarifies that wetlands are “state waters,” and requires the Board to seek a Section 404 Clean Water Act State Programmatic General Permit from the U.S. Army Corps of Engineers; **etc.**
12. **HB1192 Maritime Incident Response Advisory Committee:** Establishes this committee to help improve management of maritime fires and other incidents in Hampton Roads and elsewhere.
13. **HB1300 Chesapeake Bay Bridge and Tunnel Commission:** Expands the list of office-holders that can legally administer the oath of office to members of the Commission.
14. **HB1305 Marine Habitat and Waterways Improvement Fund:** Establishes a fund for improving marine habitat and waterways; the fund will consist of payments for the use or lease of easements in state-owned bottomlands, plus fines for violating regulations regarding state-owned bottomlands; **etc.**
15. **HB1424 Rappahannock River Basin Commission:** Repeals the “sunset” clause that would have terminated the Commission on July 1, 2000.

Passed, cont.

16. **HJ149 Study; Roanoke River Basin:** Requests the State Water Commission to study establishment of an intergovernmental structure to facilitate water-resources planning in the Roanoke River Basin.
17. **SB179 Toxic substances in state waters:** Identical to **HB404** (# 3).
18. **SB219 Oyster grounds:** Identical to **HB48** (# 2).
19. **SB296 Lake level contingency plans:** Identical to **HB625** (# 5).
20. **SB389 Resources Authority; Board of Directors:** Identical to **HB804** (# 8).
21. **SB459 Rappahannock River Basin Commission:** Identical to **HB1424** (# 15).
22. **SB613 Va. Resources Authority:** Allows the Virginia Resources Authority, with the prior approval of the Board of Health and the state treasurer, to pledge funds in the Water Supply Assistance Grant Fund as security for bonds of the Authority; **etc.** See **HB804** (# 8) for a description of this Authority.
23. **SB616 Water Supply Revolving Fund:** Transfers administration of the Virginia Water Supply Revolving Fund from the Board of Health to the Dept. of Housing and Community Development; **etc.**
24. **SB645 Water quality monitoring and reporting:** Contingent on funding, increases both the number of water-quality monitoring stations and the frequency of sampling by at least five percent annually, giving priority to impaired waters; **etc.** See related **SJ213** (# 107), which was carried over.
25. **SB648 Wetlands:** Identical to **HB1170** (# 11).
26. **SB689 Chesapeake Bay Bridge and Tunnel Commission:** Identical to **HB1300** (# 13).
27. **SB715 Va. Resources Authority; baseball stadiums:** See **HB804** (# 8), above.
28. **SB739 Maritime Incident Response Advisory Committee:** Identical to **HB1192** (# 12).
29. **SB752 Service charges for Va. Port Authority (VPA) facilities:** Allows service charges for tax-exempt property owned by the VPA to be based on the assessed value of the property and *the amount of VPA cargo tonnage shipped*; under current law, such service charges are based on the assessed value of the property and *the amount the locality spends for police and fire protection and refuse collection*; **etc.**
30. **SJ79 Study; submerged aquatic vegetation:** Directs the Virginia delegation to the Chesapeake Bay Commission to continue studying ways to protect submerged aquatic vegetation.
31. **SJ177 Study; shipbuilding industry:** Continues the Joint Subcommittee Studying Economic Incentives...[for] Virginia's Shipbuilding Industry; **etc.**

Water and Sewer Systems

32. **HB262 Liens for water and sewer charges:** Adds Culpeper County to those localities allowed to provide that charges for water or sewer service may be a lien on the real estate served.
33. **HB451 Sewage discharge certificates:** Requires that permit applications for sewage discharge into surface-water impoundments contain notification from the relevant locality that the discharge location and operation meet local zoning ordinances; **etc.**
34. **HB539 Mandatory water/sewage connection; Amelia County:** Adds this county to those counties allowed to require water/sewage connection by owners of property that may served by such systems; **etc.**
35. **HB909 Inspection of public water supply; DCLS to study costs therefor:** Requires every public water supply to test at least quarterly for *methyl tertiary-butyl ether (MTBE)*, a gasoline additive; the Division of Consolidated Laboratory Services is to report by November 1, 2000, on the estimated costs and personnel requirements for administering these tests; **etc.**
36. **HB1282 Wastewater reclamation and reuse:** Requires the Water Control Board to encourage, and establish requirements for, wastewater reclamation and reuse as an alternative to wastewater discharge.
37. **HB1377 Public utilities; termination of power supply to sewerage systems:** Requires sewerage-system operators to notify their energy utilities, the State Corporation Commission (SCC), and the Dept. of Environmental Quality (DEQ) that they operate sewage-treatment facilities; no energy utility shall suspend service to a sewerage system without 10 days' notice to the SCC and the director of the DEQ; **etc.**
38. **HJ161 Study; groundwater:** Directs the State Water Commission to study karst groundwater monitoring and protection in the Shenandoah Valley.
39. **SB177 Sewerage systems:** Requires owners of relatively small, privately-operated sewerage systems to obtain a discharge permit from the Water Control Board; the facility owner must file a plan for protecting public health and the environment if the facility ceases operation; **etc.**
40. **SB294 Sewage discharge certificates:** Identical to **HB451** (# 33).
41. **SB335 Mandatory connection to water and sewage systems:** Identical to **HB539** (# 34).

Passed, cont.

Fisheries and Habitat of Tidal Waters

- 42. **HB190 Taxation on intangible personal property; commercial fishing:** Classifies certain personal property used in commercial fishing as *intangible* and exempts the property from taxation.
- 43. **HB1277 Free fishing days:** Authorizes three annual free days for both salt- and freshwater fishing.
- 44. **SB750 Free fishing days:** Identical to **HB1277** (# 43).

Game, Inland Fisheries and Boating

- 45. **HB123 Motor fuels tax; exemption for recreational pleasure boats and ships:** Allows a refund of motor-fuel tax paid for recreational boats.
- 46. **HB502 Sale of artificially raised trout:** Allows sale of such trout for those uses that the Board of Game and Inland Fisheries may direct. Currently, such trout may be sold only for human consumption.
- 47. **HB537 Powers of Director of Dept. of Game and Inland Fisheries:** Authorizes the director to work with constituent organizations to achieve the agency's mission.
- 48. **HB664 Sportsman's hunting and fishing license:** Establishes a new combination license that can be purchased in lieu of separate hunting and fishing licenses; **etc.**
- 49. **HB787 and HJ124 Constitutional amendment on hunting and fishing:** Collectively provide for a referendum at the November 2000 election on a proposed addition to the Virginia Constitution, stating that "the people have a right to hunt, fish, and harvest game, subject to such regulations and restrictions as the General Assembly may prescribe by general law"; **etc.**
- 50. **HB896 Electronic point-of-sale system for hunting, trapping, and fishing licenses:** Authorizes the Dept. of Game and Inland Fisheries to implement such a system for issuing licenses; **etc.**
- 51. **SB395 Sale of artificially raised trout:** Identical to **HB502** (# 46).

Drainage, Soil Conservation, Sanitation and Public Facilities Districts

- 52. **HB106 Sales tax exemption for various organizations, including soil and water conservation districts:** Broadens the exemption for soil and water conservation districts to include tangible personal property that they *sell* as well as items they purchase; **etc.**
- 53. **HB594 Sanitary districts:** Allows sanitary districts to exempt, defer, or reduce charges for the use of solid-waste disposal systems by low-income senior citizens and permanently disabled citizens; **etc.**
- 54. **SB48 Sales tax exemption for various organizations, including soil and water conservation districts:** Nearly identical to **HB106** (# 52).
- 55. **SB313 VDOT drainage easements:** Requires the Dept. of Transportation (VDOT) to perform repairs on permanent drainage easements.

Conservation

- 56. **HB552 Protection of farm and forest lands:** Revises the Important Farmlands Law, which requires state agencies to evaluate the impacts of their actions on farm and forest lands; **etc.**
- 57. **HB568 Income tax refunds to open space:** Removes the "sunset" date from the *Va. Code* section dealing with voluntary contributions of tax refunds for open-space recreation and conservation.
- 58. **HB600 Va. Land Conservation Foundation:** Requires establishment of criteria for grants to localities for programs related to purchase of development rights, and that at least one member of the Foundation's Board of Trustees be a farmer.
- 59. **HB713 Management of Virginia's natural resources:** Expresses the goals of the General Assembly regarding the future management of Virginia's natural resources; **etc.**
- 60. **HB738 Open-space lands in Virginia Beach:** Provides that the city may, at the request of the fee owner of any land protected by an open-space easement or by some other interest in the land that the city has purchased, sell such interest to the fee owner *without* substituting *other* real property; **etc.**
- 61. **HB858 Review of proposed acquisitions of real property; exceptions:** To simplify acquisition of conservation easements, provides an exemption from the mandatory review by the Dept. of General Services and approval of the governor for such acquisitions; **etc.**
- 62. **HB895 Small business environmental fund:** Restricts how much of the Small Business Environmental Compliance Assistance Fund may be used for administrative costs; **etc.** This fund, created by the General Assembly in 1997, provides money to small businesses for certain pollution-control equipment and practices, including voluntary agricultural best management practices.

- 63. HB945 Soil and water conservation dams:** Establishes the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund, to be available for major or minor dam repairs; **etc.**
- 64. HB1164 Land Conservation Foundation:** Enlarges the Foundation's Board of Trustees; alters the percentage of money transferred to the Open-space Lands Preservation Trust Fund; directs the Foundation to attempt to achieve a fair geographic distribution of lands protected; **etc.**
- 65. HB1306 Income tax credits; forested buffers for waterways:** Provides a non-refundable income tax credit, up to \$17,500, to individual or corporate landowners who maintain a forested buffer zone along a waterway for 15 years; **etc.** HB1306 is very similar to **SB664** (# 73), which also passed, except that HB1306 requires a buffer zone at least *35 feet wide*, while SB664 requires a zone at least *50 feet wide*.
- 66. HB1307 Agricultural Stewardship Act:** Requires that measures required to control agricultural water pollution be maintained by the owner or operator of the subject property. The bill also clarifies the manner in which various requirements of the Act may be enforced; **etc.**
- 67. HB1324 Open-Space Lands Preservation Trust Fund:** Allows Fund grants to help localities acquire open-space easements; removes the requirement that interests in open-space lands acquired by public bodies must be located in urban areas; **etc.**
- 68. HB1326 Conservation easements:** Allows charitable entities that do *not* meet the requirements of the Va. Conservation Easement Act to hold a conservation easement *if* the easement is co-held by another charitable entity that does meet the requirements.
- 69. HJ261 Farm and forest lands:** Requests all entities that exercise eminent domain powers to recognize the intrinsic value of farm and forest lands.
- 70. HJ301 Environmental education:** Recognizes Virginia Naturally 2000 as the Commonwealth's official environmental-education initiative; **etc.**
- 71. HJ372 Sustainable Forestry Initiative:** Encourages the public, forest landowners, environmental organizations, and agencies to support the forest industry's Sustainable Forestry Initiative; **etc.**
- 72. SB396 Protection of farm and forest lands:** Identical to **HB552** (# 56).
- 73. SB664 Income tax credits; riparian forest buffers for waterways:** See **HB1306** (# 65), above.
- 74. SB668 Soil and water conservation dams:** Identical to **HB945** (# 63).
- 75. SJ76 Study; Future of Virginia's Environment:** Continues the Commission on the Future of Virginia's Environment for a fifth year; the Commission is to continue to monitor the implementation of its recommendations; **etc.** Compare to **HJ102** (# 98), which failed.
- 76. SJ134 Study; farmland protection:** Establishes a task force to develop a comprehensive farmland protection policy for the Commonwealth; **etc.**

Waste Disposal

- 77. HB681 Local recycling and waste disposal:** Authorizes localities to grant recycling incentives.
- 78. HB981 Solid-waste management facilities:** Requires that applications for permit amendments or variances to *expand* certain non-hazardous industrial-waste facilities contain the same information required for applications for *new* facilities.
- 79. HB1023 Financial responsibility, solid-waste facilities:** Requires the Waste Management Board to include facilities receiving waste from *ships and other vessels* in regulations regarding recovery of relevant public health and safety costs from any person abandoning a solid-waste management facility.
- 80. HB1228 Landfill closure:** Requires closure by 2020 of disposal areas of landfills that are *not* equipped with liner and leachate-control systems meeting current Waste Management Board regulations.
- 81. HJ214 Memorializing Congress; importation of waste:** Urges Congress to enact unspecified legislation giving states and localities the power to control importation of waste into their jurisdictions.
- 82. HJ385 Importation of municipal solid waste:** Urges Congress to enact the Solid Waste Interstate Transportation and Local Authority Act of 1999, which gives state and local governments additional authority to regulate importation of municipal solid waste.

Passed bills for which the governor recommended changes

HB404 (#3); HB419 (#4); HB1164 (#64); HB1170 (#11) and identical SB648 (#25); HB1192 (#12) and identical SB739 (#28); HB1305 (#14); and SB177 (#39).

FAILED

Waters of the State, Ports and Harbors

- 83. HB1144 Service charges, Va. Port Authority facilities:** Similar to **SB752** (# 29), which passed.
- 84. HB1246 Certificates for alterations of state waters:** Would have added wetlands to the definition of state waters and required a certificate from the Water Control Board for excavations in wetlands; **etc.**
- 85. HB1410 Peninsula Ports Authority of Virginia:** Would have reduced the size of the commission of the Peninsula Port Authority of Virginia from nine to seven members; **etc.**
- 86. HJ7 Study; locations for an additional Potomac River bridge:** Would have requested the Virginia Dept. of Transportation to study locations for an additional highway crossing of the river; **etc.**
- 87. SB695 Certificates for alterations of state waters:** Identical to **HB1246** (# 84).
- 88. SJ3 Shipbuilding industry:** Identical to **SJ177** (# 31), which passed.
- 89. SJ217 Study; urban best management practices:** Would have directed the Commission on the Future of Virginia's Environment to study the need to include best management practices for *urban* land uses in the state's nonpoint-source pollution program.

Fisheries and Habitat of Tidal Waters

- 90. HJ180 Blue crab management:** Would have expressed the General Assembly's recognition that the Va. Marine Resources Commission is important in developing an effective blue crab management plan.
- 91. SB501 Va. Marine Resources Commission membership:** Would have enlarged the membership from nine to eleven, with the new members to have expertise in fisheries management; **etc.**

Game, Inland Fisheries and Boating

- 92. SB241 Beaver damage:** Would have allowed owners of property damaged by the effects of beaver activity on water bodies to seek relief against the owner of the property where the beaver are located; **etc.**

Health

- 93. HJ272 Study; certain asbestos and lead abatement issues:** Would have requested two state departments to study certain asbestos- and lead-abatement issues, including whether abatement projects across the Commonwealth are meeting state and federal requirements; **etc.**

Conservation

- 94. HB659 Redeemable beverage containers:** Would have placed a redemption value of at least 10 cents on all beverage containers sold in Virginia; any revenue above expenses would have gone to a trust fund to be used to improve waste management and recycling efforts in the state; **etc.**
- 95. HB1290 Definition of recycling:** Would have expanded the definition of recycling to include the composting of tree branches or stumps, leaves, brush, logs, or the like; such operations would have been required to abide by all water quality laws and regulations; **etc.**
- 96. HJ12 Chesapeake 2000 Agreement:** Would have requested the Governor to agree, along with the other signatories of the Chesapeake Bay Agreement, to a commitment to reduce by 30 percent the development of forest and agricultural land.
- 97. HJ36 Study; forestry practices:** Would have established a joint subcommittee to study the water-quality and natural-resource impacts of forestry activities; **etc.**
- 98. HJ102 Study; Future of Virginia's Environment:** Would have continued the Commission on the Future of Virginia's Environment for a fifth year, with specific instructions related to economic development, "smart growth," and sprawl. Compare to **SJ76** (# 75).
- 99. SJ34 Chesapeake 2000 Agreement:** Identical to **HJ12** (# 96).
- 100. SJ170 Study; VDOT funding and operations:** Would have requested the Joint Legislative Audit and Review Commission to study several issues regarding the Va. Dept. of Transportation, including compliance with the environmental impact-statement process and the land-use impacts of the department's activities.

Waste Disposal

- 101. HJ118 Study; reduction of solid waste:** Would have established a joint subcommittee to examine strategies to reduce the amount of solid waste being deposited in Virginia's landfills; **etc.**
- 102. SJ133 Study; reduction of solid waste:** Would have directed the Commission on the Future of Virginia's Environment to examine strategies to reduce the amount of solid waste being deposited in Virginia's landfills and increase recycling; **etc.**

CARRIED OVER

Waters of the State, Ports and Harbors

- 103. SB7 Maritime Investment Act; created:** Would establish a program to provide grants, subject to appropriation, to eligible ship-repair companies making a capital investment of at least \$50,000; **etc.**
- 104. SB573 Maritime Investment Act:** See similar measure **SB7** (# 103).
- 105. SB684 Firefighting on Hampton Roads:** Would require the Virginia Port Authority, from funds appropriated for this purpose, to purchase a vessel to fight fires on Hampton Roads and adjacent property.
- 106. SB705 Dumping of motor oil from used oil filters and anti-freeze:** Would make it unlawful to discharge motor oil from used oil filters or anti-freeze into state waters, lands, or stormwater systems; **etc.**
- 107. SJ213 Study; water-quality monitoring system:** Would request the Joint Legislative Audit and Review Commission to study the progress made by the Dept. of Environmental Quality in implementing the Water Quality Monitoring, Information, and Restoration Act. See related **SB645** (# 24), which passed.

Water and Sewer Systems

- 108. SB142 Local septic system databases:** Would require, subject to appropriations, the Board of Health to establish an electronic database for applications and permits for septic systems; **etc.**

Fisheries and Habitat of Tidal Waters

- 109. SB621 Female crabs; penalties:** Would make it unlawful to catch, possess, sell, or purchase an egg-bearing female crab or a female crab from which the egg pouch has been removed; **etc.**

Health

- 110. HB930 Regulated medical waste:** Would define regulated medical waste; **etc.**
- 111. HB1531 State Board of Health; on-site soil evaluators:** Would require that people authorized by the Board as on-site soil evaluators hold a current Virginia professional soil scientist certificate.
- 112. SB726 Lead-poisoning prevention; memorandum:** Would require the Commissioner of Health and the Director of the Dept. of Medical Assistance Services to develop and execute a memorandum of agreement relating to the prevention of lead poisoning, particularly among children; **etc.**

Conservation

- 113. HB590 Conservation easements:** Would require that, when localities purchase conservation easements, public access be allowed to the land subject to the easement.
- 114. HB712 Natural Resources Policy Act; created:** The Act would repeal the existing Environmental Impact Statement review process (applying to projects using \$100,000 or more state funds); would institute a natural-resource impact review for projects using \$500,000 or more of state funds; **etc.**
- 115. HB791 Voluntary remediation of contaminated properties:** Would expand the voluntary remediation program for properties owned by local governments; would create the Voluntary Remediation Fund to provide grants to encourage local-government remediation of contaminated properties; **etc.**
- 116. HB881 Environmental laboratory certification programs:** Would exempt from the Division of Consolidated Laboratory Services' laboratory-certification regulations those laboratories in municipal treatment facilities that serve fewer than 20,000 people; **etc.**
- 117. HB1167 State recordation tax to Land Conservation Foundation:** Would require that, if the annual revenue from state recordation taxes exceeds \$91.4 million (the amount generated by the tax in 1996), the excess is to be distributed to the Va. Land Conservation Foundation; **etc.**
- 118. HB1217 Environmental laboratory certification:** Would direct the Dept. of Environmental Quality to establish two certification programs: one, for laboratories conducting analyses *required* by state environmental laws; a second, for laboratories that routinely provide testing services for customers; **etc.**
- 119. SB704 Collection of used oil, oil filters, and anti-freeze:** Would require the Dept. of Environmental Quality to create, maintain, and promote a toll-free number and Internet site with information on collection sites accepting used motor oil, oil filters, and anti-freeze; **etc.**
- 120. SB712 Environmental laboratory certification programs:** Identical to **HB1217** (# 118).
- 121. SJ167 Study; preserving open-space:** Would request the Dept. of Conservation and Recreation to study future land use along Paradise Creek and to recommend ways the state might participate in developing a park and recreational area. (The U. S. EPA has placed lands and tidal wetlands along this creek, which is located within the Norfolk Naval Shipyard in the city of Portsmouth, on the National Priorities, or "Superfund" List).

Mines and Mining

122. HB880 Mining activity: Would provide that permits for coal surface-mining operations not be approved unless the permit applicant demonstrates that the proposed mining area is *not* located under a public water-supply impoundment, a watercourse that supplies a significant quantity of water to such impoundments, or an adjacent area reasonably necessary to protect a public water supply; **etc.**

Waste Disposal

123. HB249 Financial assurance for solid-waste facilities: Would direct the Waste Management Board to require the following of facility owners and operators: a test of financial viability; escrowed funds to care for the site when the facility closes; and the ability to pay for facility-related pollution events; **etc.**

124. HB1025 Solid-waste reports: Would require *quarterly* (rather than the current *annual*) reports by the Dept. of Environmental Quality on the amount of solid waste disposed of in Virginia; **etc.**

125. SB720 Abandoned solid-waste management facilities: Would require the Waste Management Board, when promulgating regulations pertaining to financial responsibility for abandoned facilities, to consider whether there is some type of financial assurance required by a locality.

Reflections on the Water in the 2000 Virginia General Assembly

(Originally published in the June.-August 2000 issue of *Virginia Water Central*, available online at <http://www.vwrrc.vt.edu/watercentral.html>.)



Following our inventory of water legislation in the 2000 Virginia General Assembly, *Water Central* conducted a mail survey of 100 water professionals, state legislators, news reporters, and individuals or organizations chosen randomly from the *Water Central* mailing list. The survey asked recipients three questions: if they followed water-related legislation; if so, what specific bills interested them; and what bill or bills they considered *most* important. This article reports the choices and comments from the 48 people who responded.

Survey respondents who wished to remain anonymous are not identified in any way with their bill choices and comments. Other respondents who commented are identified by name, location, and affiliation if they represent an organization.

Many Measures Mentioned

Respondents identified 33 distinct bills or resolutions, here collectively called “measures.” On the following page is a table listing the measures mentioned by at least one survey respondent. The list is in order of the number of people mentioning the measures, which is shown in the right column. House measures are identified as HB for bills and HJ for resolutions; Senate measures as SB or SJ. Identical House and Senate bills are listed as only one measure. Some survey respondents cited topics of interest but not specific bills; those topics are listed at the end of the table.

Of the 33 measures identified by survey respondents, 14 bills or resolutions were cited by one or more respondents as the *most important* water-related legislation of the session. In the table, the number of people doing so is shown in parenthesis in the right column. Most of these 14 measures passed, but two were carried over, and one failed.

**Virginia General Assembly (2000) Water Measures
Watched by 48 People Responding to June 2000 Survey***

Bill, resolution, or general topic (no specific bill) followed	# respondents following (with # citing as most important)
1. HB1170/SB684, Wetlands permitting—Passed	18 (15)
2. HB30, Budget bill—Passed	9 (6)
3. HB404/SB179, Monitoring for toxic substances in state waters—Passed	9 (4)
4. SB177, Permits and financing for small, private sewage systems—Passed	5 (2)
5. HB1282, Water reclamation and reuse—Passed	5 (1)
6. SB645, Water-quality monitoring and reporting—Passed	4 (1)
7. HB1306/SB664, Tax credits for riparian forest buffers—Passed	3 (1)
8. HB106/SB48, Sales tax exemption: Soil and Water Conserv. Districts—Passed	2 (1)
9. HB681, Local recycling and waste disposal—Passed	2
10. HB909, Methyl tertiary-butyl ether (MTBE) in public water supplies—Passed	2
11. HB1165, Freedom of Information Act; record exemptions—Passed	2
12. HJ149, Roanoke River Basin study—Passed	2
13. HJ161, Shenandoah Valley groundwater study—Passed	2 (1)
14. SB613, Va. Resources Authority and water-supply funds—Carried Over	2 (1)
15. SB616, Water-supply revolving fund—Carried Over	2 (1)
16. HB323, Claims related to water supply in a Fauquier Co. subdivision—Passed	1
17. HB552, Protection of farm and forest lands—Passed	1
18. HB600, Va. Land Conservation Foundation: grants to localities—Passed	1
19. HB624/SB296, Lake-level contingency plans—Passed	1
20. HB712, Natural Resources Policy Act—Carried Over	1
21. HB880, Effects of underground coal mining on surface water—Carried Over	1
22. HB945, Soil and water conservation dams—Passed	1 (1)
23. HB1164, Va. Land Conservation Foundation: membership, grants, geographic coverage—Passed	1 (1)
24. HB1217/SB712, Environmental laboratory certification—Carried Over	1
25. HB1305, Marine Habitat and Waterways Improvement Fund—Passed	1
26. HB1324, Open-Space Lands Preservation Trust Fund—Passed	1
27. HJ12, Chesapeake 2000 Agreement's development provision—Failed	1 (1)
28. HJ261, Farm and forest lands—Passed	1
29. HJ301, Virginia Naturally environmental education initiative—Passed	1
30. HJ372, Sustainable forestry initiative—Passed	1
31. SB705, Dumping of motor oil and anti-freeze—Failed	1
32. SJ79, Submerged aquatic vegetation study—Passed	1
33. SJ217, Urban best management practices study—Failed	1
Topic: Chesapeake Bay—tributaries, fisheries, water quality	3 (1)
Topic: Total Maximum Daily Loads (TMDLs)	2 (1)
Topic: Development-impact fees for facilities, including water-related facilities	1 (1)
Topic: Water utilities	1
Did not follow water-related legislation	15

*The recipients were in two groups:

- 1) 47 individuals or organizations chosen randomly from the *Water Central* mailing list, May 23, 2000;
- 2) 53 people selected intentionally from water-related state agencies; businesses; interest groups; news media; and the General Assembly, specifically the House Appropriations, Senate Finance, House Conservation/Natural Resources, and Senate Agriculture/Natural Resources committees.

The surveys were mailed May 23, 2000, from Blacksburg with a self-addressed stamped envelope enclosed and requesting a response by June 12. Forty-eight people responded.

Respondents Choose and Speak

The first seven bills listed above were followed by three or more people, as well as being cited by at least one person as the *most* important water-related measure of the session. Let's look at these seven in more detail.¹

1. HB1170/SB684, Non-tidal Wetlands Protection Program.

Summary: This bill requires that those proposing to conduct certain activities in **nontidal wetlands** (wetlands away from the coast and which contain water only at certain times of the year) first obtain a Virginia Water Protection Permit from the Water Control Board. The Board must establish both *individual* and *general* permits for such activities, with the general permits applicable to activities affecting less than one-half acre of wetlands. The permits will require compensatory actions, known as **mitigation**, for adverse impacts to wetlands. Normal agricultural and silvicultural activities are exempt from the permit requirement.

The bill also directs the Water Control Board “generally to establish and implement policies and programs to protect and enhance the Commonwealth’s wetland resources.” The Board is to use a *regulatory* approach to achieve the goal of no net *loss* of state wetlands and a *voluntary* approach to achieve a net *gain*.

The bill also clarifies that wetlands are state waters under the State Water Control Law, and it requires the Water Control Board to seek a Clean Water Act/Section 404 “State Programmatic General Permit” from the U.S. Army Corps of Engineers.

Resondent Comments: This was “easily” the most important water-related legislation of the session, according to one respondent. Other respondents agreed. Del. Vic Thomas (D-17th) called it the most important water-related bill “of this year or any recent year.” Sen. Patricia Ticer (D-30th) said, “Without it, we could have lost much of our non-tidal wetlands under the Tulloch court decision.” Kay Slaughter, at the Southern Environmental Law Center in Charlottesville, said the wetlands bill was “undoubtedly” the most important one passing this year. And citizen Susan Collins, of Prince George, called protection of existing wetlands “crucial because of their many ecological and economic benefits.”

Robert G. Burnley, at the Virginia Economic Development Partnership in Richmond, noted the bill’s “potential impacts on water quality, [by] stopping...practices which may reduce the state’s wetlands acreage, *and*...on economic development.” Ms. Slaughter spoke to the potential economic impacts as well: “It was important that this bill addressed many of the concerns [of] the business community, [and it] should be able to balance the need for wetlands impacts with the need to mitigate those impacts...”

Several people requesting anonymity also had comments on the wetlands bill:

- The bill “marked a significant change in policy-makers’ willingness to address comprehensive wetlands protection...The results came after a strong grass-roots effort...from a...surprisingly diverse group” of supporters of the bill.
- The bill appeared to show a compromise among three general positions within the General Assembly: “development at all cost, some protection of the environment, or strong environmental protection.”
- “In ways not yet understood” the bill may have “a very significant impact upon... development and land use.”
- The bill “changes the regulatory structure for wetlands in a substantial way.”
- Such a bill “has been needed for more than a decade, but [is] critical now, especially in lower Hampton Roads.”

¹ The summaries presented are adapted from the Virginia Legislative Information System, an Internet-based source for the content and status of General Assembly legislation. Please see last page of this article for more information about this and other sources for learning about specific legislation.

2. HB30, Budget bill.

Summary: The budget bill makes appropriations for the 2000-02 biennium.

Respondent Comments: “[The] state budget!!” With that, Del. Robert Bloxom (R-1st) gives his choice of the most important water-related bill. It’s hard to argue with him: no bill is effective unless the state appropriates money to implement or enforce its provisions. For some perspective, here are the *total* budgets (including non-water-related items) for the biennium for four of the most important natural-resource agencies in Virginia:

Dept. of Environmental Quality (DEQ): \$270,781,611;

Dept. of Conservation and Recreation (DCR): \$130,153,303;

Dept. of Game and Inland Fisheries (DGIF): \$83,074,610; and

Marine Resources Commission (VMRC):
\$28,970,373.

Collectively, the six people (including Del. Bloxom) who cited the budget’s significance to water resources mentioned several particular budget items:

•**Water Quality Improvement Fund.** This fund provides grants to local governments, soil and water conservations districts, institutions of higher education, and individuals for water-pollution prevention, reduction, and control programs. The fund has \$28.85 million for Fiscal Year 2001: \$16.85 to support the point-source pollution program, and \$12 million for the nonpoint-source pollution program.

•**Citizen monitoring.** The Department of Environmental Quality’s (DEQ’s) budget includes \$462,000 over the biennium for water-monitoring and clean-up efforts by citizens groups, including \$252,000 for sediment clean-up in the Elizabeth River; \$100,000 for the statewide Citizens for Water-quality Monitoring Alliance; \$60,000 to the Friends of the Shenandoah group; and \$50,000 to the Virginia Izaak Walton League’s Save Our Streams program.

•**Total Maximum Daily Loads (TMDLs).** The DEQ’s budget includes \$1.3 million to support the work of developing TMDLs for the state’s impaired waters.

•**BMP assistance.** The Department of Conservation and Recreation’s (DCR’s) budget includes \$1 million of best management practices (BMPs) cost-sharing and \$200,000 for BMP engineering.

•**Water-supply planning.** The DEQ’s budget contains \$850,000 to develop a statewide water-supply planning initiative.

3. HB404/SB179, Monitoring for toxic substances in state waters.

Summary: This bill increases requirements for the Water Control Board, the Department of Environmental Quality, and the Department of Health to monitor and report toxic substances in state waters, as follows:

New requirements for the Water Control Board

1) The Board’s annual toxics report to the General Assembly should describe the segments of Virginia’s waters “where there has been a commitment to conduct additional evaluation and monitoring of toxic substances.”

2) Water segments identified in the state Water Quality Monitoring Plan are to be monitored at least once every three years, “contingent upon the availability of funding.”

2) The Board is to review at least once every five years its technologies for toxic removal or remediation.

3) Citizens gain the right to petition the Board to include a water segment in the agency’s monitoring plan; such an inclusion could result in the sampling fish tissue and sediments. The Board must respond to these petitions, but it is not *compelled* to include the requested segments in the state water-quality monitoring plan. If the requested segment is not included in the plan, however, the Board must provide a written explanation of the petition denial.

New requirements for the departments of Environmental Quality (DEQ) and Health (VDH)

- 1) The DEQ must post on its Internet site results from fish-tissue and sediment monitoring for at least one year.
- 2) The DEQ and VDH must develop a memorandum of agreement “to ensure the timely exchange and evaluation of reliable water-quality and fish-advisory information between the two agencies.”
- 3) The DEQ must develop a written policy identifying the circumstances and factors that would warrant an assessment of potential sources of toxic contamination.
- 4) The VDH must develop a written policy identifying the criteria used to determine whether toxic substances are present in levels high enough to warrant a fish-consumption advisory.
- 5) The departments’ memorandum of agreement and written policies are to be submitted to the chairpersons of the General Assembly committees that have oversight of DEQ activities.

Respondent Comment: One respondent said that “increased monitoring by the State will affect the outcome of the 303(d) list of impaired waters and the Clean Water Act 305(b) reports, eventually affecting the total maximum daily loading studies, which may lead to effluent limitations and other additional regulations.”

4. SB177, Small sewage treatment plants’ financial assurance.

Summary: This bill requires owners of small, privately-operated sewage-treatment systems to obtain a pollution-discharge permit from the Water Control Board. (The systems addressed are those discharging between 1,000 and 40,000 gallons of effluent per day.) To obtain a permit, facility owners must file a plan for controlling, preventing, or containing any threat to public health or the environment if the facility ceases operation. Owners must also demonstrate the financial capability to terminate the facility properly. Penalties and cost responsibilities are identified for any owner “who ceases operations and knowingly and willfully fails to implement a closure plan...if such failure results in significant harm to human health or the environment.

Respondent Comment: “Dilapidated facilities...[going] into such decline without anyone being held accountable...could be a much under-estimated source of fecal coliform contamination in certain watersheds.”

5. HB1282, Wastewater reclamation and re-use.

Summary: This bill requires the Water Control Board to “encourage and establish” requirements for reclamation and re-use of wastewater, as “an alternative to directly discharging pollutants” to state waters.

Respondent Comment: One respondent said that the bill could mean “significant changes to the equations for meeting demands for water, by providing non-potable water where the use doesn’t mandate potability. The key will be how fast the DEQ can come up with regulations to implement the law change.”

6. SB645, Water-quality monitoring.

Summary: This bill increases both the number of water-quality monitoring stations and the frequency of sampling by at least five percent annually, with priority given to those water bodies for which there is “credible evidence showing impairment of the water body.” Currently, monitoring and sampling are to be expanded so that the sampling effort will ultimately be representative of all river and stream miles in the state, but no statute requires expansion by a specific percentage annually. The stipulated expansion is contingent upon the appropriation of adequate funding.

No respondents commented on this bill.

7. HB1306, Riparian buffers tax credit.

Summary: This bill establishes a non-refundable income tax credit to individual or

corporate owners of **riparian land** (land abutting a waterway) who “forbear harvesting timber on certain portions of the land near the waterway for 15 years.” The amount of the credit is equal to 25 percent of the value of the timber in the buffer, up to \$17,500 (with a recapture provision if the timber is harvested before the end of the 15-year period). The State Forester is to develop guidelines and to certify individual plans of qualifying taxpayers.

Comment: Steve Mallette, of Locustville, said that this is “the first...credit provided to landowners that recognizes the financial contribution landowners have been providing for water quality [and] habitat protection.”

Miscellaneous Comments

- From Neal Kilgore, of the Va. Division of Soil and Water Conservation: Three kinds of bills are important to “address long-term [water] priorities for the state:

- 1) bills that provide equitable funding across the state;
- 2) bills that address a broad range of issues, not just agriculture; and
- 3) bills that address water-quantity issues.”

- From C. L. Tucker, of Powhatan: The Land Conservation Foundation [the subject of HB 600 and HB1164] is “probably the best tool available to help set aside in perpetuity pieces of land that will otherwise be developed, compromised, or destroyed.”

- From an anonymous respondent: “It is important to require developers to show that there are adequate resources...and public facilities before they’re allowed to build, so as not to put unnecessary strain on available water resources.”

- From an anonymous respondent: SB613 and SB616, both carried over to 2001, “would kill the water-supply program—very dangerous legislation.” [*Ed. note:* Presumably the respondent meant the water-supply *funding* program. SB613 would allow the Va. Resources Authority to pledge funds in the Water Supply Assistance Grant Fund as security for bonds of the Authority. SB616 would transfer administration of the Va. Water Supply Revolving Fund from the Board of Health to the Housing and Community Development Department.]

Conclusion

This article has mentioned only about one-fourth of the water-related legislation considered in the 2000 General Assembly. Further, it has dealt in detail with only a few bills. For ways to learn more about other recent legislation on water or any other topic, please see the suggestions in the box below.

The sample of opinion here is not based on a statistically valid survey. *Water Central* did not randomly sample the whole state, and our results obviously do not include the opinions of people who chose not to return their survey. Consequently, these results do not completely represent the state or even the people who received the survey. Rather than that difficult goal, we sought instead only to increase the amount of conversation about water-related issues in Virginia—to let more people have *a* word, not the *last* word.

Articles by the Water Central staff.

The opinions expressed in these articles are not necessarily those of the Virginia Water Resources Research Center. Water Central is grateful to all the people who responded to the survey.