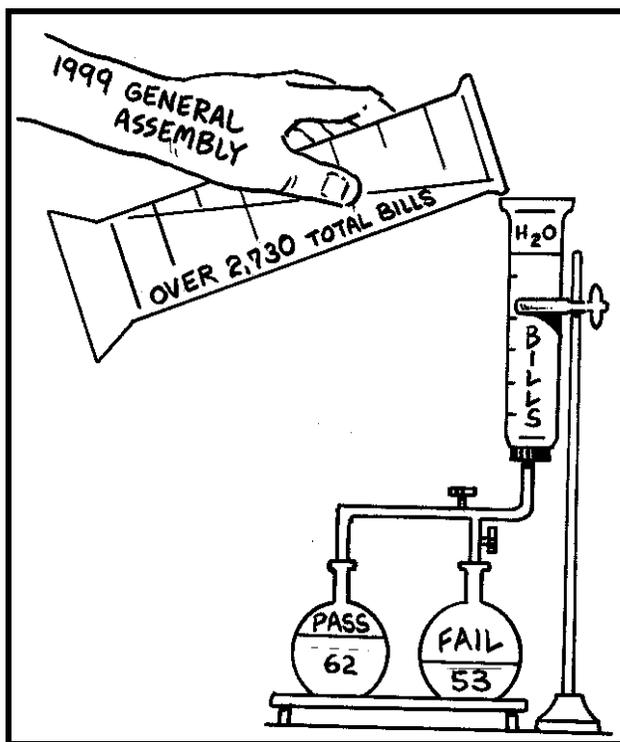


The Volume of Water Bills in the 1999 Virginia General Assembly

(Originally published in the April 1999 issue of *Virginia Water Central*, available online at <http://www.vwrrc.vt.edu/watercentral.html>.)



The Virginia General Assembly held its 1999 session from January 13 to February 27. During the regular session, lawmakers considered 2,735 bills and resolutions, compared to 2945 measures considered in the longer 1998 session. Of the more than 2,700 bills and resolutions that legislators debated in 1999, 115 were—in some way—water-related; that is, their provisions would have had some impact on water resources or on water-related activities, such as boating and fishing.

To identify these water-related bills, we 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 first the two categories under which most water-related bills fall: "Waters of the State, Ports and Harbors" and "Water and Sewer Systems." We then searched under several other relevant categories, which are identified in the list of bills that begins on page 2.

Our list includes solid-waste bills because water quality is a key issue in current solid-waste discussions. Due to space, however, the list does not include 14 measures dealing with land conservation or taxation, although these measures may eventually affect water resources. Nor does the list include the final budget bill, HB 1450, which of course determines any water-related funding, such as in the budgets of natural-resource agencies.

One passed water-related bill, HB 2272 (Impact of piers on oyster grounds), was vetoed by the governor.

Following the bill inventory is a Feature Article from the June 1999 *Water Central* examining bills that received the attention of various water-resource and public-policy professionals.

Water Legislation in the 1999 Virginia General Assembly

The bills are grouped by whether they passed or failed, and then by the indexing topics. 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; **SCC** = State Corporation

Commission; **DEQ** = Va. Dept. of Environmental Quality; **VMRC** = Va. Marine Resources Commission; **VIMS** = Va. Institute of Marine Science; **VDH** = Va. Dept. of Health; **DCR** = Va. Dept. of Conservation and Recreation; **SWCB** = State Water Control Board; **SAV** = submerged aquatic vegetation; and **etc.** = other provisions in the bill not noted here.

PASSED

Conservation

HB 2471 Solid waste management and enforcement: Prohibits the issuance of permits for the siting of new municipal solid waste landfills in certain environmentally sensitive areas; **etc.**

HB 2557 Solid waste management: Expands the required review by DEQ when it considers permit applications related to solid waste management facilities and the siting of new landfills, including prohibiting new landfills in seven types of environmentally or geologically sensitive areas; **etc.**

Fisheries and Habitat of Tidal Waters

HB 1634 Commercial fishery grants: Establishes the Fishery Resource Grant Fund. The Graduate Marine Science Consortium will award grants, based on the advice of a seven-member Fishery Resource Grant Advisory Board; **etc.**

HB 2266 Submerged aquatic vegetation: Requires the VMRC, in consultation with VIMS, to develop criteria to aid in (i) defining existing beds of SAV and (ii) delineating potential areas for SAV restoration.

HB 2269 Public trust in subaqueous lands: Directs the VMRC to exercise its authority to protect the public right to use and enjoy the sub-aqueous lands held in trust by the Commonwealth; **etc.**

HB 2272 Impact of piers on oyster grounds: Requires the Commissioner of Marine Resources to find that a proposed private pier will not have an adverse impact on commercially productive oyster grounds before the exemption from permit requirements for private piers applies; **etc. VETOED.**

HB 2279 Crab and peeler pots: Allows the VMRC to establish the appropriate size for the mesh in crab pots and peeler pots; **etc.**

HB 2306 VMRC member qualifications: Requires that appointees to the VMRC have earned their livelihoods for at least five years by working on Virginia waters, and are licensed and registered as commercial fishermen.

HB 2514 Saltwater recreational fishing licenses: Clarifies that a saltwater recreational fishing license purchased by a charterboat or headboat captain for his customers also covers the vessel's captain and mate.

HB 2601 Recreational saltwater fishing: Authorizes the VMRC to establish a fishing guide license for charterboat and headboat captains.

SJ 397 Study; winter crab dredging: Requests the Secretary of Natural Resources to establish a task force to study the effects of winter dredging on the long-term sustainability of the blue-crab fishery.

Game, Inland Fisheries, and Boating

HB 1455 Personal watercraft rentals: Makes it a Class 4 misdemeanor for a renter or leaseholder of a personal watercraft to falsify information on the rental agreement; **etc.**

HB 1484 Recreational boats; saltwater recreational fishing licenses: Allows boat licenses, which cover all of the boat's passengers, to be issued to boat operators instead of just the boat's owner.

HB 1485 Saltwater recreational fishing licenses: Allows any individual to apply for a lifetime saltwater recreational fishing license from the VMRC.

HB 2292 Private pleasure watercraft; optional uninsured coverage: Requires insurers to offer limits of liability for optional uninsured private pleasure watercraft insurance that are equal to the liability limits of the private pleasure watercraft policy; **etc.** HB 2622 was incorporated into this bill.

SB 979 "No wake" buoys: Allows a person to apply to a local governing body for the removal of "no wake" buoys; **etc.**

SB 1134 Personal property tax on certain small boats and watercraft: Adds new classifications, for personal property tax purposes, for watercraft under 18 feet, either motorized or nonmotorized; **etc.**

Passed, cont.

SJ 413 Reciprocal fishing agreement: Requests the Virginia Department of Game and Inland Fisheries and the Virginia Economic Development Partnership to work with their counterpart agencies in Tennessee to develop a reciprocal fishing license agreement for the South Holston reservoir.

Public Service Companies

HB 2443 Regulated land-disturbing activities: Permits annual filings of Erosion and Sediment Control Plans, by certain utilities, with the DCR. This bill extends to natural gas utilities the same treatment that railroads, and electric and telephone utilities are afforded; **etc.**

HB 2748 Sanitary districts; relocation of utility lines to underground: Permits such districts to provide for burying above-ground distribution lines for electricity, telephone, cable television, and similar services and utilities.

Waste Disposal

HJ 706 Solid waste flow control: Urges Congress to enact legislation that would establish the authority of local governments to adopt "flow control" ordinances and thereby more effectively control the movement of solid waste generated within their jurisdictions.

SB 1201 Caps on landfill disposal: Caps the amount of municipal solid waste that may be disposed of in a landfill at 2,000 tons per day or the average amount disposed of in 1998, whichever is greater; **etc.**

Water and Sewer Systems

HB 1965 Liens for water and sewer charges: Adds Petersburg and Stafford County to localities allowed to provide that taxes or charges for water or sewer service shall be a lien on the real estate served.

HB 2242 Water Supply Assistance Grant Fund: Establishes the Water Supply Assistance Grant Fund to allow the State Board of Health to provide grants to help provide safe drinking water; **etc.**

HB 2337 Health; sewage system permits: Extends from July 1, 1996, to July 1, 2001, the "grandfather" date for certified professional soil scientists to be deemed onsite soil evaluators for the purposes of adoption of regulations for the program; **etc.**

HB 2432 Water Facilities Revolving Fund: Allows loans from the fund to private wastewater treatment facilities, if permitted by federal law.

HB 2455 Water and Waste Authorities Act; exempt from Utility Facilities Act: Exempts from the operation of the Utilities Facilities Act (§ 56-265.1 et seq.), an authority, or any subsidiary thereof, organized pursuant to the Virginia Water and Waste Authorities Act to operate a refuse collection and disposal system that, pursuant to statute, is specifically authorized to include in the system (i) facilities for processing solid waste as a fuel, and (ii) facilities for generating steam and electricity for sale; **etc.**

HB 2598 Liens for water and sewer charges: Adds the City of Richmond to localities authorized to place a lien on real estate for unpaid water and sewer charges.

HJ 662 Study; wastewater reclamation and reuse: Requests the DEQ to study ways to encourage, promote, and regulate the reclamation and reuse of wastewater.

SB 739 Virginia Water and Waste Authorities Act: Provides that the governing body of a locality can stop an authority's power of eminent domain by condemning land where a designated historic landmark, building, structure, district, object, or site is located.

SB 963 Health; onsite sewage evaluations: Requires—for subdivision review, permit approval, and issuance of letters for residential development—that the Board, Commissioner, and VDH accept private site evaluations and designs in compliance with the Board's regulations for septic systems and other onsite sewage systems; **etc.**

SB 1062 Health; private wells: Adds Powhatan County to localities that may, by ordinance, establish standards consistent with state standards for the location and testing of water from private wells.

SB 1202 Virginia Water and Waste Authorities Act; exemption from Utility Facilities Act: Similar to HB 2455, which also passed, listed above.

SB 1254 Liens for water and sewer charges: Adds the Cities of Richmond, Newport News, and Petersburg to localities authorized to place a lien on real estate for unpaid water and sewer charges.

Passed, cont.

- SB 1273 Public utilities; Water and Waste Authorities Act:** Exempts from regulation under the Utilities Facilities Act authorities created pursuant to the Water and Waste Authorities Act that sell landfill gas from a solid waste management facility permitted by the DEQ and operated an authority.
- SB 1312 Taxation of well drilling equipment:** Equalizes the taxation of well-drilling machinery and mining machinery.

Waters of the State, Ports and Harbors

- HB 814:** Specifies minimum public participation requirements in the development of guidelines describing eligibility requirements, priorities, and criteria for Water Quality Improvement Fund grants; **etc.**
- HB 1207 Poultry waste management in Chesapeake Bay watershed:** Requires the SWCB to establish a regulatory program for poultry waste management in the Bay watershed.
- HB 1582 Dam safety:** Authorizes the Director of the DCR to order the lowering or complete draining of an earthen impoundment if it has been determined that the impoundment structure is unsafe; **etc.**
- HB 1859 Petroleum storage tank fee:** Changes the threshold amount that has to be maintained in the Virginia Petroleum Storage Tank Fund before the fee on motor and heating fuels can be decreased.
- HB 1860 Oil facility financial assurance:** Requires that operators of oil facilities annually demonstrate financial responsibility for containment and cleanup as may be required by SWCB regulations.
- HB 1968 Regulation of personal watercraft rentals:** Authorizes localities with a population greater than 390,000 to adopt ordinances regulating businesses that offer personal watercraft for rent; **etc.**
- HB 2014 Petroleum Storage Tank Fund; fees:** Clarifies who is liable to the Department of Motor Vehicles for the payment of fees on the sale of certain fuels; **etc.**
- HB 2220 Regulating mooring and anchoring:** Authorizes Hampton to enact an ordinance to control the mooring and anchoring of vessels in the City's waters.
- HB 2221 Removal of property from waters; penalty:** Makes it a Class 3 misdemeanor for the owner of a vessel to allow his boat to be abandoned, left in danger of sinking, or left in disrepair for more than a week after notification by the VMRC or a law enforcement official; **etc.**
- HB 2267 Tributary plans; sediments and suspended solids:** Adds sediment and suspended solids as pollutants in tributary plans.
- HB 2268 Suspended solids; Water Quality Improvement Act Grants:** Includes suspended solids in the non-exclusive list of pollutants covered by water quality protection efforts funded by nonpoint source pollution-related Water Quality Improvement Act Grants.
- HB 2318 Educational Institution Water Quality Improvement Fund:** Specifies that higher education institutions are eligible for Water Quality Improvement Fund grants.
- HB 2401 Estuarine and Coastal System:** Creates the Virginia Estuarine and Coastal Reserve System.
- HB 2430 Regulation of wastes transported on water:** Adds to the directives on the regulations to be developed for containers carrying certain wastes by ship, barge, or other vessels on Virginia waters; **etc.**
- HB 2556 Water transport of wastes:** Provides for the prohibition of the commercial transport of certain types of solid and medical wastes by ship, barge, or other vessel on the navigable waters of the Commonwealth; **etc.** HB 2454, Transportation of wastes on water, was incorporated into this bill.
- HB 2574 Surface water management area voluntary agreements:** Provides control to voluntary agreements among water users in a surface water management area, in lieu of a permit issued by the SWCB, when the board finds that the agreement complies with the area law; **etc.**
- HB 2590 Permanent easement in James River:** Authorizes the VMRC to grant a permanent easement to the U. S. Forest Service for 0.76 acres of sub-aqueous land in the James River in Amherst and Bedford Counties; **etc.**
- HJ 660 Study; bottomland uses, submerged aquatic vegetation:** Requests the Virginia Delegation to the Chesapeake Bay Commission to examine issues that may have potential impacts to SAV; **etc.**
- HJ 704 Study; additional "inland ports":** Requests the Secretary of Transportation to study the desirability and feasibility of establishing additional intermodal transfer facilities to aid in reducing long-haul truck traffic on Virginia's highways.
- SB 582 Wetlands mitigation banks:** Allows compensation for adverse impacts to wetlands to be done using wetlands mitigation bank credits; **etc.**
- SB 1147 Virginia Water Facilities Revolving Loan Fund:** Allows the SWCB to loan money from the Fund to several newly defined categories of recipients; **etc.**

Passed, cont.

- SB 1308 Water transport of wastes:** Prohibits the commercial transport of certain types of solid wastes, by ship, barge, or other vessel, on the Rappahannock, James and York Rivers; **etc.**
- SB 1310 Virginia Resources Authority:** Allows the Virginia Resources Authority to issue bonds not backed by the moral obligation of the Commonwealth.
- SJ 330 Commemorative postage stamp:** Requests the U. S. Postal Service to issue a stamp commemorating the 200th anniversary of the U. S. naval shipyards, the oldest and largest of which is the Norfolk Naval Shipyard.
- SJ 436 Study; Shipbuilding Industry:** Continues the Joint Subcommittee Studying Economic Incentives to Promote the Growth and Competitiveness of Virginia's Shipbuilding Industry.
- SJ 483 Commemorative postage stamp:** Similar to SJ 330, which also passed, listed above.

FAILED

Agriculture, Horticulture, and Food

- HB 2053 Specialty fertilizer:** Would have required retail businesses that sell specialty fertilizer for lawn use to provide the purchaser written information on the water-quality effects of over-application; **etc.**

Counties, Cities and Towns

- HB 1029 Subdivision Ordinances:** Would have allowed localities to require applicants for major water-consuming projects to demonstrate that sufficient water was available to serve the proposed project without harming existing water users; **etc**

Conservation

- HB 1089 Water Quality Improvement Act point source grants:** Would have removed a restriction that point source grants from the Water Quality Improvement Fund first go to installation of biological nutrient removal at publicly-owned sewage treatment plants; **etc.**
- HB 2069 Water Quality Improvement Act funding calculation:** Would have clarified that required payments into the Revenue Stabilization Fund were not to be included in the calculation of the 10 percent of any unreserved general fund balances remaining at the end of each fiscal year, which are to be deposited into the Water Quality Improvement Fund; **etc.**
- HB 2650 Non-tidewater locality water quality assistance:** Would have allowed local governments outside of the area designated as "Tidewater Virginia" to receive assistance in developing and implementing a voluntary program, approved by the Chesapeake Bay Local Assistance Board, to incorporate protection of the quality of state waters into their comprehensive plans, zoning ordinances and subdivision ordinances; **etc.**
- HB 2735 Agricultural Stewardship Act:** Would have conformed the definition of pollution in the Agricultural Stewardship Act to the definition of pollution in the State Water Control Law.
- SB 1133 Non-tidewater locality water quality assistance:** Same as HB 2650, which also failed, listed above.

Dangerous or Hazardous Substances or Chemicals

- SB 1274 Pesticide application:** Would have required commercial applicators and registered technicians applying any herbicide to a privately-owned lake, pond, or impoundment to give at least 48 hours notice to residents of adjacent property and those within one-quarter mile of the application.

Drainage, Soil Conservation, Sanitation and Public Facilities Districts

- HB 1875 Highway signs; soil and water conservation districts:** Would have required the Commonwealth Transportation Commissioner to develop standards for signs indicating soil and water conservation districts.
- HB 2225 Erosion and sediment control recovery fund:** Would have allowed localities, in lieu of existing security for performance requirements set forth in the erosion and sediment control law, to establish an erosion and sediment control recovery fund; **etc.**
- HB 579 Oyster and clam aquaculture:** Would have ensured that riparian landowners in Virginia Beach have a 50-foot zone from mean low water for oyster and clam aquaculture.
- HB 598 Fishery regulations:** Would have required that all fishery regulations, except for emergency regulations, promulgated by the VMRC remain effective for one year, without being amended.

Failed, cont.

Fisheries and Habitat of Tidal Waters

- HB 671 Fishery Resource Grant Program; created:** Would have established the Fishery Resource Grant Program to award grants to commercial fishermen for the following: new fisheries equipment, environmental pilot studies, aquaculture of marine-dependent species, or seafood technology; **etc.**
- HB 1471 Commercial fishermen fees:** Would have reduced the annual registration fee for commercial fisherman under the age of 70 from \$150 to \$100, and for those 70 or older from \$75 to \$50.
- HB 1472 VMRC emergency regulations:** Would have required the Secretary of Natural Resources to make a determination that an emergency exists before any emergency regulations adopted by the VMRC could be submitted to the Registrar of Regulations or become effective.
- HB 1473 Oyster reefs:** Would have prohibited the construction of oyster reefs on state bottomlands and in the Baylor Survey area; **etc.**
- HB 1838 Fishing license, registration or permit revocation:** Would have clarified that any person engaged in commercial fishing who has had their license, permit, or registration revoked cannot serve as a mate or assistant on vessels of other licensed commercial waterman during the period of the revocation; **etc.**
- HB 2304 Oyster Fund:** Would have required general fund money that has been appropriated for oyster replenishment be deposited in the Public Oyster Rocks Replenishment Fund.
- SB 329 Disposal of vegetative waste:** Would have exempted disposal of vegetative waste on agricultural or forestal land in Bedford County from the requirement for a solid-waste management facility permit.
- SB 392 Restrictions on taking crabs:** Would have required any size and catch restriction on peeler and soft crabs to be identical.
- SB 393 Gray trout; management:** Would have required any regulation of the commercial gray trout fishery to apply the same limit to every method of catch.
- SB 395 Restrictions on crab dredging:** Would have prohibited crab dredging on Sundays; **etc.**
- SB 1080 Taking of certain crabs:** Would have prohibited the taking of peeler crabs less than three inches and soft crabs less than three and one-half inches across.

Game, Inland Fisheries and Boating

- HB 40 Hunting and fishing license fee adjustments:** Would have authorized the Board of Game and Inland Fisheries to increase the cost of basic hunting, fishing, and big game licenses; **etc.**
- HB 160 Personal watercraft; age increased for operation:** Would have increased the minimum age to operate a personal watercraft from 14 to 16.
- HB 765 Boating; life jackets for children:** Would have required a child 12 years of age or younger to wear a personal flotation device while in a motorboat.
- SB 1208 Safe boating:** Would have required persons operating motorboats to have a safe boating reference card on board their boat while it was in operation; **etc.**

Waste Disposal

- HB 1466 Clean-up and closure of landfills:** Would have allowed landfills authorized under HB 1205 (1993), which do not meet modern requirements for liners and leachate collection systems, to continue operating. As introduced, the bill required closure of the "HB 1205" landfills.
- HB 1677 Medical waste penalties:** Would have specified that it is a felony to knowingly transport regulated medical waste to an unpermitted facility; **etc.**
- HB 2486 Solid waste management:** Would have provided that permits for new sanitary landfills should only be issued to counties, cities, or towns and that the locality must own the landfill.
- SB 1182 Regulation and management of solid waste:** Would have capped the amount of municipal solid waste that may be disposed of in a landfill at 2,000 tons per day, or the actual amount disposed of in 1998, whichever is greater; **etc.**

Water and Sewer Systems

- HB 739 Small water or sewer public utilities; rate changes:** Would have prohibited small water and sewer companies from imposing rate increases or other changes in rates, fees, and charges prior to public hearings and approval by the SCC; **etc.**
- HB 2025 Health; water works:** Would have provided that no owner shall establish a waterworks system without providing sufficient standby power to treat and distribute the water during power failures.

Failed, cont.

- HB 2066 Water Quality Improvement Fund Grant uses:** Would have clarified that these grants are not for the purpose of enabling the recipient to comply with permit requirements.
- HB 2627 Orphaned wells:** Would have allowed oil and gas operators to obtain permits for investigating the redevelopment of an orphaned well.
- HB 2727 Tributyltin standard:** Would have modified the effective date for a water quality standard for tributyltin found in the SWCB's regulation.
- SB 1268 Water permit fees:** Would have removed the caps on the amount the SWCB could charge for processing applications for various types of water permits.
- SB 1292 Tributyltin standard:** Similar to HB 2727, which also failed, listed above.

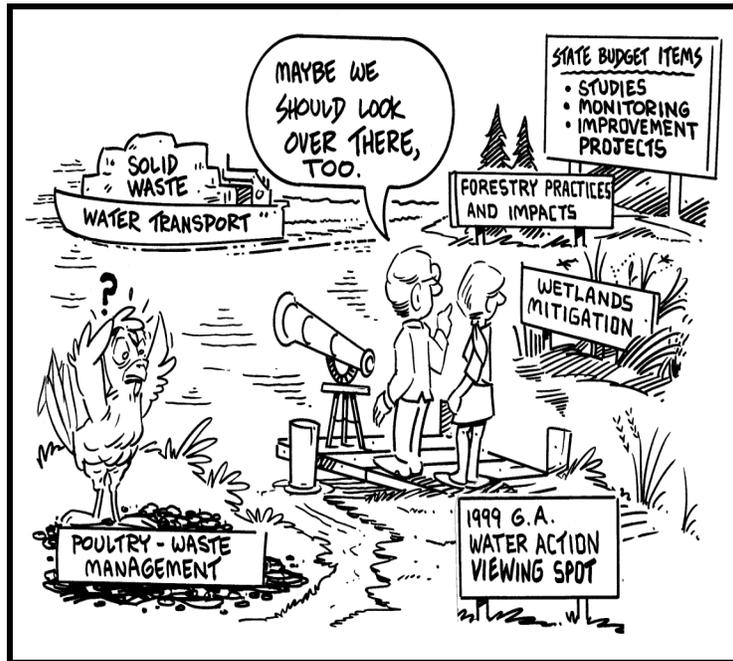
Waters of the State, Ports and Harbors

- HB 473 Water Quality Improvement Fund; utilization of:** Would have expanded the eligible uses of the Water Quality Improvement Fund to include the installation of nutrient-removal technology at private wastewater treatment plants; **etc.**
- HB 818 Prohibition on water transport of wastes:** Would have prohibited the transport of solid and medical wastes by any vessel on state waters to the extent not inconsistent with the U. S. Constitution.
- HB 823 Chesapeake Bay Byway Program; created:** Would have established the U. S. Route 3 Chesapeake Bay Byway Program as a special transportation program for the Northern Neck area; **etc.**
- HB 1348 Shipbuilding industry tax credit:** Would have created credits against employee income tax withholding for contributions by a qualified shipbuilder for a carrier platform integration center; **etc.**
- HB 1924 Confined swine feeding operations:** Would have imposed a moratorium on the permitting and construction of such operations for the period between July 1, 1999, and July 1, 2001; **etc.**
- HB 1803 Illegal gambling; promoting gambling aboard ships; penalty:** Would have prohibited any person from knowingly advancing or profiting from gambling activity on vessels on Virginia waters; **etc.**
- HB 2017 Virginia Port Authority; Board of Commissioners:** Would have added three members to the Board of Commissioners: one resident of Newport News, one resident of Norfolk, and one resident of Portsmouth, appointed by the respective city councils.
- HB 2282 Property conveyance in Rappahannock River:** Would have authorized the VMRC to convey a causeway and a manmade island in the Rappahannock River in Middlesex County to a private party.
- HB 2448 Confined animal feeding operations:** Would have required the owners of such operations that are required to obtain coverage under a general permit issued by the SWCB to provide evidence of financial responsibility for closing the operation's liquid manure collection and storage system.
- HB 2481 Illegal gambling; promoting gambling aboard ships; penalty:** Similar to HB 1803, which also failed, listed above.
- SB 49 Water Quality Improvement Act:** Same as HB 814, which passed, listed above.
- SB 597 Water permit fees:** Would have required the SWCB to recover the total costs of administering the water permit program through the imposition of annual fees on water permits; **etc.**
- SB 656 Regulation of water transport of wastes on James River:** Would have prohibited, to the extent allowable under the federal constitution, the transport of solid and medical wastes by ship, barge, or other vessel on the James River.
- SB 802 Illegal gambling; promoting gambling aboard ships; penalty:** Similar to HB 1803 and HB 2481, which also failed, both listed above.
- SB 951 Virginia Port Authority:** Would have required that, beginning with persons appointed or reappointed to the Authority's Board of Commissioners on or after July 1, 1999, at least one must be a Portsmouth resident.

FEATURE ARTICLE

Expanding the “Viewshed” on State Water Legislation

(Originally published in the June 1999 issue of *Virginia Water Central*, available online at <http://www.vwrrc.vt.edu/watercentral.html>.)



Following water-related action in the Virginia General Assembly legislation is relatively simple for the few high-profile bills each session that garner media attention. But when over 100 water-related bills are considered in a single session, the public misses a great deal. In our last issue, we listed 115 water-related bills considered by the 1999 General Assembly, with a brief summary of each bill and its status. In this follow-up feature, a variety of individuals agreed to identify what they consider the most important or interesting legislation in the recent session. Our interviews tapped General Assembly members, professionals in business and industry, state-agency staff, non-profit group representatives, and one staff member from a federal agency. From the perspective of these sources, some lesser-known bills deserve a spot in our collective field of vision. *For a list of the sources consulted and their bill choices, please see the last page.*

Bills in the Media Forefront

Three bills were mentioned several times, two of which have been in the mainstream media on numerous occasions. HB1207, Poultry Waste Management in the Chesapeake Bay Watershed, was carried over from 1998 and passed in 1999. This high-profile bill means that the disposal of poultry waste will be regulated for the first time ever in Virginia. The legislators we interviewed included this bill in their lists not only because of its ground-breaking impact, but because they said it took so much of their time. The same was true for three bills on barge-transport of solid waste: HB2430, HB2556, and SB1308. These bills banned trash transport on the state's major rivers and toughened regulations concerning the containers used on barges to haul trash. The constitutionality of the river-transport ban—in HB2556 and SB1308—remains in question and raised the issue to a national news level.

Bills on the Public's Periphery

Wetlands Mitigation Banks

SB582, Wetlands Mitigation Banks, was carried over from 1998 and passed in 1999. This bill allows compensation for damaging wetlands to be done using “bank credits,” that is, by restoring wetlands elsewhere in the watershed. For instance, a company would not receive a permit to fill an acre of wetlands unless an acre of the same type of wetlands was created or restored elsewhere in the watershed. The law also allows for compensation to occur in a *nearby* watershed, under certain conditions.

This bill was very important to environmentalists concerned about maintaining the state's wetland acreage; to developers and the Virginia Department of Transportation (who often fill wetlands in their course of work); and to private companies—known as wetlands-mitigation bankers—who often restore wetlands, creating credits than can be purchased by those who receive fill permits.

Forestry Practices and Impacts

Paul Howe, executive vice president of the Virginia Forestry Association (VFA), said from his group's perspective HJ730 was the most critical thing that happened this session. This resolution called for a study of the economic and environmental impact of logging in the state. The study will undoubtedly touch on water-quality issues, such as streambank stability¹ and surface-water runoff from logging operations. The resolution for the study recognizes that the forests are integral in water quality and state that forests “filter air and water pollution; protect soil and water resources; provide fish and wildlife habitat...”

Howe also watched two ultimately *unsuccessful* bills closely. The first was SB1274, which would have required anyone applying a pesticide near a lake or pond to notify nearby residents in advance. The second, HB1830, would have required a specially trained logger on site for each logging job. The VFA—which represents more than 1,500 loggers, private landowners, and members of the forest products industry—opposed both bills. Howe said loggers feared the pesticide bill could have led to restrictions on herbicides, which loggers use to control which trees grow in their forestry operations. Howe and others called HB1830 unnecessary. “[We opposed it] mainly because we have a very widespread and well-attended logger education program already in place,” Howe said.

Tom Reisdorf, the chairman of the Virginia Council of Trout Unlimited, said his group was disappointed that HB1830 failed. Trout Unlimited, with about 3,000 members statewide, focuses on the restoration and enhancement of cold-water fisheries habitats. “We consider the presence of a certified master logger to be beneficial to wildlife and water quality,” Reisdorf said.

Trout Unlimited was pleased, though, with HJ730's passage, and the group plans to assist with the study. “Trout fisheries need shade and bank stability,” Mr. Reisdorf said.²

Tributyltin, or TBT

TBT is used in paints on ship hulls to discourage marine growth. Extremely toxic to marine life, TBT enters the Chesapeake Bay in a variety of ways, including discharges from shipyards. HB2727 and its Senate twin SB1292 would have allowed the shipbuilding industry more than 12 years to meet the state's strict TBT standard. A compromise was reached between shipbuilders and the state, with these elements: Norfolk Shipbuilding & Drydock Corporation (Norshipco) has until December 1, 2002, to meet the state's standard; Gov. Gilmore put \$1.5 million in his budget to fund a TBT study; and both HB2727 and SB1292 were killed.

¹ Streambank stability refers to the ability of plants, rocks, and other materials on the bank to reduce erosion of the bank from flowing water.

² Streamside shade helps keep water temperatures in the cool range that trout need. A stable streambank leads to less erosion-caused sediments that can impair water quality and habitat.

Norshipco Executive Vice President Jack Roper stated “the legislation helped bring focus to this controversial issue and the result was a win-win for jobs and environment.” Barb Wrenn, director of land-use and environmental services for the Virginia Municipal League, said the compromise was extremely important. “If passed, [the TBT bills] could have hampered or even reversed considerable progress made in the bay’s restoration.”

Local Governments and Water Quality

The director of the Chesapeake Bay Local Assistance Department (CBLAD) said the most important legislation to his organization had the governor’s backing, but not the legislature’s. Michael D. Clower, whose agency offers planning assistance related to impacts on the Chesapeake Bay to 84 localities in the Tidewater region, said CBLAD lobbied for HB2650 and its twin bill in the Senate, SB1133, both of which failed. The bills would have allowed local governments across the state (specifically, outside of the Tidewater Virginia area) to get financial and technical assistance to develop and implement a voluntary program incorporating water quality into comprehensive plans, zoning ordinances, and subdivision ordinances. Clower said CBLAD will not seek to have the bill introduced again in 2000 but may do so in a few years.

Budgets Make Policy

Republican Delegate Robert S. Bloxom, the only member of the Virginia General Assembly from the Eastern Shore, is a member of the tri-state Chesapeake Bay Commission and the Virginia House of Delegates’ Chesapeake and Its Tributaries Committee. What did he consider the most important water-related action of the 1999 session? “That’s easy,” he said, “it’s the budget bill” [SB800]. “There were a lot of policy decisions [made during the session], but quite often the policies are decided by how the dollars flow,” Bloxom said.

Del. Bloxom noted that there were several attempts to divert money from the Water Quality Improvement Fund into various programs. The fund, created in 1997, offers grants for pollution-reduction programs that, for the most part, go beyond mandated levels. According to John Kennedy, an environmental program manager in the Va. Dept. of Environmental Quality’s Chesapeake Bay Office, the original purpose of the fund was to support nutrient reduction and the implementation of tributary strategies being developed for the Chesapeake Bay watershed. According to Del. Bloxom, in this session a “major policy decision,” in the form of HB814, was made to keep the fund focused on its original and primary purpose.

How money is distributed by the state came up several times with other sources, as well. Grant programs and revolving loan funds, particularly, were noted. For example, Eric Bartsch, director of the Va. Dept. of Health’s Office of Water Programs, watched with interest as HB2242 (Water Supply Assistance Grant Fund) made its way successfully through the legislature. Bartsch’s office supported the bill, which establishes a fund for the State Board of Health to provide grants to assist waterworks owners and local governments in providing safe drinking water. Meanwhile, Jay Gilliam, the coordinator of the Save Our Streams program for the Virginia Izaak Walton League, praised the legislature for allocating \$65,000 to a competitive-grant program for citizen water-quality monitoring.

Issues Not Yet in View

Issues like poultry-waste management in the Bay watershed—which involve years of debate and affect thousands of Virginians—rightly garner a healthy amount of public attention. But what other potentially high-impact issues may—for the moment—be lurking out of sight?

Ward Staubitz, Virginia district chief of the U. S. Geological Survey’s Water Resources Division, had one answer. While he commended the state’s strides in surface-water quality improvement (noting the poultry-waste bill as an example), he said current *groundwater-protection* practices are not so proactive. The current use, availability, and vulnerability of groundwater are

all “poorly understood,” Staubitz said. “The state needs to take a more active role in defining and managing this undervalued resource.”

Next year, will Virginia’s legislators be debating groundwater or garbage barges? Waterworks or water planning? Tributyltin or too little rain? Perhaps attention will turn to an issue in *your* water-viewshed.

**Key to Bill Numbers
Referred to in this Article
(*italics = bill passed*; plain type = bill failed)**

<i>HB814</i>	<i>Water Quality Improve. Act; amendments</i>
<i>HB1207</i>	<i>Poultry-waste management</i>
HB 1737	Claims; Canterbury Village subdivision
HB1830	Forestry; logger education
HB 2025	Health; waterworks
<i>HB2242</i>	<i>Water Supply Assistance Grant Fund</i>
<i>HB2266</i>	<i>Submerged aquatic vegetation</i>
<i>HB2401</i>	<i>Estuarine and Coastal System</i>
<i>HB2430</i>	<i>Regulation of wastes transported on water</i>
<i>HB2432</i>	<i>Water Facilities Revolving Fund</i>
HB2727	Tributyltin standard
<i>HB2556</i>	<i>Water transport of wastes</i>
<i>HB2557</i>	<i>Solid waste management</i>
<i>HB2471</i>	<i>Solid waste management and enforcement</i>
<i>HB2574</i>	<i>Surface-water management area agreements</i>
HB2650	Non-Tidewater area water-quality assistance
HJ 535	Study; forestry practices
<i>HJ662</i>	<i>Study, wastewater reclamation and reuse</i>
<i>HJ730</i>	<i>Study, satellite chip mills</i>
<i>SB582</i>	<i>Wetlands mitigation banks</i>
<i>SB800</i>	<i>Budget bill</i>
<i>SB865</i>	<i>Solid waste management</i>
SB1133	Non-Tidewater area water-quality assistance
<i>SB1146</i>	<i>Small Business Environmental Compliance Assistance Fund</i>
<i>SB1147</i>	<i>Virginia Water Facilities Loan Fund</i>
SB1268	Water-permit fees
SB1274	Pesticide application
SB1292	Tributyltin standard
<i>SB1308</i>	<i>Water transport of wastes</i>
<i>SB1309</i>	<i>Solid-waste management</i>

The Sources and Their Choices of Most Significant Legislation in 1999

- Eric Bartsch**, Va. Dept. of Health: HB1737, HB2025, and HB2242.
- Del. Harry Blevins** (represents part of Chesapeake), Chesapeake and Its Tributaries Committee: HB1207 and SB582.
- Del. Robert Bloxom** (represents Accomack, Gloucester [part], Matthews, and Northampton counties), Chesapeake and Its Tributaries Committee, and Chesapeake Bay Commission: HB814, HB1450, and SB800.
- Michael Clower**, Chesapeake Bay Local Assistance Dept.: HB2650 and SB1133.
- Sen. Emily Couric** (represents Albemarle, Greene, Madison, Nelson, and Orange counties and part of Charlottesville), Agriculture, Conservation and Natural Resources Committee: HB1207, HB1450, HB2430, HB2556, SB800 and SB1308.
- Kathy Frahm**, Va. Dept. of Environ. Quality: HB1207, HB1450, HB2430, HB2471, HB2556, HB2557, HB2574, HJ662, SB582, SB800, SB865, SB1146, SB1147, SB1308, and SB1309.

- Jay Gilliam**, Va. Izaak Walton League: SB800—in particular, \$65,000 for a competitive-grant program to fund citizen water-quality monitoring.
- Paul Howe**, Va. Forestry Assoc.: HB1830, HJ 535, HJ730, and SB1274.
- Larry Land**, Va. Assoc. of Counties: SB800—in particular, \$150,000 from the Water Quality Improvement Fund for a study of management options for animal-feeding operations.
- Ann Pharr**, Newport News Shipbuilding: SB1268.
- Terry Porter**, B. A. Mullican Lumber & Manufacturing Co.: HB1830.
- Tom Reisdorf**, Trout Unlimited: HB1830 and HJ730.
- Jack Roper**, Norfolk Shipbuilding & Drydock Corporation: HB2727 and SB1292.
- Ward Staubitz**, U. S. Geological Survey: HB1207.
- Sen. Patricia Ticer** (represents Arlington [part], and Fairfax [part] counties and Alexandria), Agriculture, Conservation and Natural Resources Committee: HB814, HB1207, HB2266, HB2401, HB2432, SB582, and SB1147.
- Barbara Wrenn**, Va. Municipal League: HB814, HB1207, HB2727, and SB800.

Articles by Lisa Garcia. Opinions expressed in the Feature Article (following the bill inventory article) are not necessarily those of the Virginia Water Resources Research Center. Water Central is grateful to all the people who provided information for the Feature Article.