

Water in the 2004 Virginia General Assembly

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The 2004 Virginia General Assembly convened January 14 and was scheduled to adjourn March 13, with a reconvened ("veto") session planned for April 21. The main issue in this session was the competing budget proposals (for fiscal years 2005 and 2006) from the governor, House of Delegates, and Senate. The Assembly could not agree upon a budget bill by March 13, so the session was extended for three days. With still no agreement in place, the governor called a special budget session commencing March 17; as of April 13, the legislators had not reached final agreement.

Despite the overwhelming presence of the budget issue, the legislature still considered 3006 measures; 1715 passed both houses, 866 failed, and 425 were carried over to 2005. This article lists **84 measures related to water resources or to land activities with a potential impact on water**. The list comes from the Legislative Information Service (LIS) Web site, at <http://leg1.state.va.us>. We searched for water-related bills list in nine subject categories used by the LIS: Conservation; Drainage, Soil Conservation, Sanitation, and Public Facilities Districts; Fisheries and Habitat of Tidal Waters; Game, Inland Fisheries and Boating; Health; Mines and Mining; Waste Disposal; Water and Sewer Systems; and Waters of the State, Ports and Harbors. We have organized our list by category, alphabetically. Where LIS listed bills under more than one category, we have placed the bill in the first category alphabetically. 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. We have numbered the bills consecutively to help refer readers from one bill to another; these numbers, however, have no *legislative* significance.

The bill summaries were taken directly from LIS, with some editing for space, clarity, or emphasis.

At the end of the article, we provide a table of the bill numbers and titles only (no summaries) grouped according to bill fate (passed, failed, or carried over).

Abbreviations:

DCR—Virginia Department of Conservation and Recreation; **DEQ**—Virginia Department of Environmental Quality; **DGIF**—Virginia Department of Game and Inland Fisheries; **SWCB**—State Water Control Board; **VIMS**—Virginia Institute of Marine Science; **VMRC**—Virginia Marine Resources Commission; **WQIF**—Virginia Water Quality Improvement Fund.

CONSERVATION

[Click here for access to the Legislative Information System's site for the 2004 General Assembly session. At this site, click on "Bills and Resolutions" to search by bills number for more information about a particular bill.](#)

- 1) **HB 445 Erosion and sediment control and stormwater management inspectors; certificate of competence. PASSED.** Requires personnel of the Department of Conservation and Recreation (DCR) (inspects for compliance with the Erosion and Sediment Control Law) and the Department of Environmental Quality (DEQ) (inspect for compliance with stormwater management permits) to hold valid certificates of competence of the Erosion and Sediment Control Law.
- 2) **HB 693 Natural and Historic Resources Fund and Commission; created, report. FAILED.** Would have created the Virginia Natural and Historic Resources Fund, a permanent, non-reverting fund of money appropriated by the General Assembly and any other public or private money. The money in the Fund would have been allocated by the Secretary of Natural Resources to the Virginia Land Conservation Fund and the Virginia Water Quality Improvement Fund (WQIF). The bill would have established a seven-member commission to provide recommendations to the Secretary regarding the allocation of the Fund. Under the legislation, the \$10 fee currently assessed on various deeds for which the state recordation tax is collected would have been dedicated to the Fund. An identical bill, **SB 569**, and a related bill, **SB 527**, also failed.
- 3) **HB 719 Chesapeake Bay Preservation Act; requires attorney general to defend locality if any private legal action is brought. CARRIED OVER.** Would require the attorney general, if requested by a locality, to defend the locality in a private legal action resulting from the locality's adoption or implementation of criteria developed by the Chesapeake Bay Local Assistance Board to regulate the land use and protect water quality. An identical bill, **SB 104**, failed. For a related bill, see **SB 427** (#15 below).
- 4) **HB 883 Conservation easements; holders to have principal office in State. PASSED.** Reduces, from five to four, the minimum number of years required for a holder of a conservation easement to have a principal office in the Commonwealth.
- 5) **HB 1177 Stormwater management programs; reorganization. PASSED.** Consolidates Virginia's stormwater management programs within the DCR and transfers oversight responsibilities from the Virginia Board of Conservation and Recreation to the Virginia Soil and Water Conservation Board.
- 6) **HB 1271 Soil and water conservation districts; nonpoint source pollution activities. PASSED.** Specifies the roles of soil and water conservation districts. Districts are to assist the DCR in (i) providing technical assistance to promote conservation management practices, (ii) delivering educational initiatives on water quality issues, and (iii) promoting incentives to encourage voluntary actions to minimize nonpoint source pollution. The districts will also be responsible for locally administering the Department's Agricultural Best Management Practices Cost-Share Assistance Program.
- 7) **HB 1283 Erosion & Sediment Control Law; definition of land-disturbing activity. PASSED.** Specifies that only those surface or deep mining activities that are *authorized under a permit* issued by the Department of Mines, Minerals and Energy shall be excluded from the Erosion and Sediment Control Law's definition of "land-disturbing activity."
- 8) **HB 1350 Environmental permit fees; applicable to water and non-hazardous solid waste. PASSED.** Assesses a combination of permit application fees, annual fees, and permit maintenance fees that will generate approximately \$6 million for the funding of air, water, and waste permit programs at the DEQ; authorizes the Air Pollution Control Board to collect a permit application fee not to exceed \$30,000 for new major stationary sources; establishes

annual fees for various non-hazardous solid waste management facilities including non-captive industrial landfills, construction and demolition debris landfills, sanitary landfills, incinerators, and other types of facilities; and establishes the maximum amounts that the State Water Control Board (SWCB) can charge for processing various types of water permits and the maximum amounts it can assess as a permit maintenance fee on each permit type. An identical bill, **SB 365**, also passed.

- 9) **HB 1418 Water quality improvement fee; imposition. CARRIED OVER.** Would impose a \$1 per month fee on owners of improved real property having a value of more than \$60,000, with localities responsible for collecting the fee and remitting the funds to the State Treasurer for deposit in the WQIF. An additional \$1 per month fee would be assessed on such property owners if they are served by a wastewater treatment facility. The locality would be allowed to withhold quarterly \$10,000 or three percent of the amount due, whichever is less, to cover its administrative expenses. Seventy percent of the funds received would be allocated for point-source pollution programs and 30 percent for nonpoint source-pollution programs.
- 10) **HB 1436 Subaqueous lands; Marine Resources Commission to grant easement in Elizabeth River to VEPCO. PASSED.** Authorizes the Virginia Marine Resources Commission (VMRC) to grant an easement and 50-foot right-of-way to Virginia Electric and Power Company (VEPCO) in the Elizabeth River for the construction of an additional electrical transmission line cable to provide service to Norfolk and the surrounding area.
- 11) **SB 104 Chesapeake Bay Preservation Act; requires attorney general to defend locality if any private legal action is brought. FAILED.** See **HB 719** (#3 above).
- 12) **SB 322 Natural resources; recovery of damages to State. CARRIED OVER.** Would allow the attorney general to employ special counsel if he or she decides it is impracticable or uneconomical for the attorney general's office to render the required legal services for cases involving the recovery of damages to natural resources.
- 13) **SB 365 Environmental permit fees; applicable to water and non-hazardous solid waste. PASSED.** See **HB 1350** (#8 above).
- 14) **SB 426 Stormwater; regulation of billing charges. PASSED.** Allows a locality to combine the billings for stormwater charges with billings for water or sewer charges and to establish by ordinance the order in which payments will be applied to the different charges.
- 15) **SB 427 Chesapeake Bay Preservation Act; expands boundaries. FAILED.** Expands the boundaries of the Chesapeake Bay Preservation Act to include the entire watershed of the Chesapeake Bay, not just Tidewater. For a related bill, see **HB 719** (#3 above).
- 16) **SB 523 Watershed Coordination Program; established. PASSED.** Directs the DCR to create the Watershed Coordination Program to engage stakeholders within each of 14 major river basins to develop comprehensive strategic plans to mitigate and prevent nonpoint-source water pollution. The Program will continue the work of watershed roundtables, support citizen stewardship activities, and be coordinated with the agencies of the Secretariat of Natural Resources, the Department of Forestry, and the Department of Agriculture and Consumer Services. The Program will be funded with private funds; however, the initial costs associated with the development of the Program shall be paid from the WQIF. This bill allows up to \$65,000 per year from the WQIF to be used to cover costs of administering the Program. The DCR may assist in fund-raising efforts to supplement the Fund and provide assistance to the fund-raising efforts of the watershed roundtables.
- 17) **SB 527 Land and Water Conservation Trust Fund; established. FAILED.** Would have established the Land and Water Conservation Trust Fund, capitalized from revenue generated from a fee imposed on waterworks owners of \$2 per water connection, a \$10 fee for each instrument recorded in deed books and upon each judgment docketed in the judgment lien docket book, general fund appropriations, and any other moneys available from public and private sources. This money was to be allocated as follows: at least 47 percent to the Virginia Land Conservation Fund, at least 47 percent going to the WQIF, and up to six percent for

management and administration of these two funds. Two related bills, **HB 693** (#2 above) and **SB 569** (#18 below), also failed.

- 18) **SB 569 Natural and Historic Resources Fund and Commission; created, report. FAILED.** See **HB 693** (#2 above).
- 19) **SB 586 Game & fish refuges & preserves; Bd. of Game & Inland Fisheries authorized to grant easements therefor. FAILED.** Would have allowed the Board of Game and Inland Fisheries to grant easements and rights of way over lands and waters acquired for game and fish refuges and preserves.
- 20) **SB 639 Pollutant loading allocations; adoption of nitrogen & phosphorous levels in Chesapeake Bay tributaries. CARRIED OVER.** Would require the SWCB to adopt numeric pollutant-loading allocations for nitrogen and phosphorous for each of the major Chesapeake Bay tributaries; would establish initial loading allocations, which would remain in place until the Board adopts its loading requirements; and would authorize the Board to establish a point-source pollutant trading program for nitrogen and phosphorous.

DRAINAGE, SOIL CONSERVATION, SANITATION, AND PUBLIC FACILITIES DISTRICTS

- 21) **HB 1429 Erosion and Sediment Control Law; submission of conservation plan for land-disturbing activities. CARRIED OVER.** Would require the Virginia Department of Transportation (VDOT) to submit a conservation plan to the DCR for each project involving a land-disturbing activity (defined as disturbed land areas of 10,000 square feet or greater). Currently, all state agencies, including VDOT, have the option of submitting to DCR one *annual* report specifying their land-disturbing activities.

FISHERIES AND HABITAT OF TIDAL WATERS

- 22) **HB 182 Bottomlands, state-owned; permits for use. PASSED.** Removes the VMRC's authority to assess royalties for the use of state-owned bottomland. The VMRC retains the authority to charge permit fees for the use of bottomland, the recovery of underwater historic property, and the removal of bottom material, easements, and leases. The bill removes the option available to ship construction and repair businesses of paying a one-time permit fee of up to \$5,000, in lieu of any other royalties; instead, businesses will have to pay a fee of between \$25 and \$100. An identical bill, **SB 606** (#37, below), also passed.
- 23) **HB 446 Menhaden fishery; establishment of a management plan. FAILED.** Would have directed the VMRC to prepare and implement a menhaden fishery management plan.
- 24) **HB 489 Wetlands boards; members. PASSED.** Directs localities that have enacted wetlands zoning ordinances and created wetlands boards to appoint 1—3 alternate members to such boards.
- 25) **HB 758 Hunting, trapping and fishing licenses; exempts spouses of children and grandchildren. PASSED.** Exempts a landowner's grandchildren and their spouses from having to obtain a license to hunt, trap, or fish on their grandparents' property.
- 26) **HB 797 Newport News reservoir project; VMRC to convey easement therefor. FAILED.** Would have authorized the VMRC to convey a permanent easement of approximately 0.9 acres in the Mattaponi River, in King William County, to the City of Newport News for the purpose of constructing a raw water intake structure to provide water supply for the Newport News reservoir project. An identical bill, **SB 420** (#34, below), also failed. For a related bill, see **SB 109** (#33 below).
- 27) **HB 962 Concealed weapons; certain retired members of VMRC authorized to carry. FAILED.** Would have exempted from the permit requirements for carrying concealed weapons

any retired member of the Law Enforcement Division of the VMRC who has a service-related disability or at least 15 years of service (other than a person terminated for cause), provided such officer carries written proof of certain required documentation issued by the chief law-enforcement officer of the VMRC.

- 28) HB 1024 Saltwater fishing licenses and permits; fees increased. PASSED.** Authorizes the VMRC to increase fees administratively for saltwater fishing licenses and permits, but not more frequently than once every three years. The amount generated from increases in the *commercial* fishing fees is to be paid into the Marine Fishing Improvement Fund, and the amount generated from increases in the *recreational* fishing licenses is to be paid into the Saltwater Recreational Fishing Development Fund. The bill also authorizes the VMRC to establish permit fees for delayed or limited entry fisheries, for shellfish relaying, and for scientific collections. For a related bill, see **HB 1452** (#31 below).
- 29) HB 1278 Oysters and clams; penalty for theft of certain. PASSED.** Provides that taking naturally occurring oysters or clams from leased planting grounds without the owner's permission constitutes larceny.
- 30) HB 1313 William J. Hargis, Jr., Library at Institute of Marine Science. PASSED.** Designates the library at the Virginia Institute of Marine Science (VIMS) the William Jennings Hargis, Jr., Library.
- 31) HB 1452 Fresh water and saltwater fishing; a combined license may be established. PASSED.** Establishes a special combined fishing license for persons who want to fish in freshwater and saltwater. People who purchase this license will not have to buy a basic state fishing license issued by the Department of Game and Inland Fisheries (DGIF) or the saltwater recreational fishing license issued by the VMRC. The cost of this license is \$19.50 for residents and \$37.50 for nonresidents. Of the \$19.50 resident fee, \$7 will be paid into the Saltwater Recreational Fishing Development Fund, \$12 into the Game Protection Fund, and 50 cents to a VMRC sales agent. Of the \$37.50 nonresident fee, \$7 will be deposited in the Saltwater Recreational Fishing Development Fund, \$30 into the Game Protection Fund, and 50 cents to the sales agent. For a related bill, see **HB 1024** (#28 above).
- 32) HJ 226 Natural aquatic resources; VIMS to study. CARRIED OVER.** Would request VIMS, in consultation with appropriate state and federal natural resource management agencies, local governments, and interested parties to conduct a two-year study (to be submitted to the 2006 session of the General Assembly) of the natural aquatic resources associated with available water resources.
- 33) SB 109 Submerged land permit; exemptions. FAILED.** Would have exempted any water-supply project for which the SWCB had approved a Virginia Water Protection Permit from having to receive a separate permit from the VMRC for use of state-owned bottomland. The bill provided that although the permit could not be issued until the SWCB had consulted with the VMRC and considered its recommendations, issuance of the permit would constitute *final* state action on the project. For a related bill, see **HB 797** (#26 above).
- 34) SB 420 Newport News reservoir project; VMRC to convey easement therefor. FAILED.** See **HB 797** (#26 above).
- 35) SB 432 Bottomlands, state-owned; permits for use. PASSED.** Prohibits any person from reapplying for a VMRC bottomlands permit within a year of the denial of the original permit if it is for the same or substantially similar use of the bottomlands.
- 36) SB 605 Water columns for aquaculture purposes; leasing. PASSED.** Authorizes the VMRC to lease (for specified fees) the water column above certain state-owned bottomlands for aquacultural purposes. The applicant must identify the size, location, and characteristics of the proposed leased area, describe the types of aquaculture structures to be deployed, and provide a five-year development plan detailing the activities to take place in the leased area. Each five-year lease may be renewed for an additional five-year period, provided the area has been aquaculturally productive.

37) **SB 606 Bottomlands, state-owned; permits for use. PASSED.** See **HB 182** (#22 above).

GAME AND INLAND FISHERIES

38) **HB 301 Hunting, trapping, fishing and motorboat registration; fees increased.**

PASSED. Authorizes the Board of Game and Inland Fisheries to revise the fees for hunting, trapping, fishing, and motorboat registration. The fees cannot be changed more than once every three years. Any increase or decrease in the fee cannot be for more than \$5.

39) **HB 1142 Aquatic nuisance species, nonindigenous; control and eradication.**

PASSED. Directs the Department of Game and Inland Fisheries to utilize the best available scientific technology that is specific to controlling the targeted nonindigenous aquatic nuisance species, environmentally sound, practical, and cost effective. This bill also directs the Secretary of Natural Resources to seek and accept all possible funding to carry out the purposes of Virginia's nonindigenous aquatic nuisance laws.

40) **SB 439 Sales and use taxes: entitles Hampton City to allocable revenues from**

watercraft business and sales. FAILED. Would have dedicated to the City of Hampton 2 percent of the 3.5 percent state general sales tax, plus all of the watercraft sales tax from boat sales in the City and from sales made by boating businesses located in the City, for the purposes of enhancing and improving recreation opportunities for boaters and anglers and for conservation initiatives.

41) **SB 554 Personal flotation devices; required for children. FAILED.** Would have required all children 12 years of age or younger to wear a Type I, II, III, or Type V U.S. Coast Guard-approved personal flotation device on recreational vehicles under 21 feet in length, with recreational vessel operators subject to a \$250 fine for violation. The bill defined "recreational vessel" to include any vessel capable of being used for transportation on water *when the vessel is being used for non-commercial purposes.*

HEALTH

42) **HB 747 Sewage systems and public water supplies, local; adequacy. CARRIED**

OVER. Would direct the State Department of Health to undertake a comprehensive assessment process to determine the adequacy of local sewage systems and public water supplies provided to its citizens by each locality in the Commonwealth. If the department determined that a locality's sewage systems or public water supplies are not adequate to serve its current population, or will be inadequate within the next five years, and the locality failed to develop a program to cure this situation, then the department would establish and apply a local sewage system and public water supply residential development *impact fee* in such locality. The fee, collected from builders of new residential units, would be based upon the department's determination of the impact of each additional residential unit on existing sewage systems and public water supplies and on the costs of improving or developing new sewage systems and public water supplies in order to adequately meet the needs of such new residential development. The department would make disbursements to the locality for the acquisition, improvement, or development of new or existing sewage systems and public water supplies, until such time as the department determined that the local sewage systems and public water supplies are adequate.

43) **HB 930 Septic systems; validity of septic tank permits. PASSED.** Grandfathers certain onsite sewage systems into the Board of Health's regulatory scheme. The bill provides that whenever any onsite sewage system is failing and the Board's regulations for repairing it impose (i) a requirement for treatment beyond the level of treatment provided by the existing

onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the owner may request a waiver from such requirements. The Commissioner is required to grant such requests, unless he or she finds that the failing system was installed illegally without a permit. The owner of the property is required to disclose to all potential purchasers or mortgage holders that any operating onsite sewage system permit granted under a waiver shall be null and void at the time of transfer or sale of the property.

- 44) HB 1198 Public water supplies; emergency plans for safe handling during any extended power outage. PASSED.** Authorizes the Board of Health to promulgate requirements and criteria for community public water suppliers to develop and maintain an emergency management plan for providing pure water during any extended power outage.
- 45) SB 125 Water wells; location and testing in Goochland County. PASSED.** Adds Goochland County to those localities that may establish their own standards, consistent with State Board of Health regulations, for location and testing of water from private wells, and to establish *more stringent* standards for construction and abandonment of such wells.

WASTE DISPOSAL

- 46) HB 639 Landfills; siting in Appomattox County, submission of environmental impact reports. PASSED.** Authorizes Appomattox County to construct a landfill closer to an existing public water supply intake or reservoir than is allowed by law, if the Director of the DEQ finds that the distance would not be detrimental to human health and the environment, and provides that a new landfill in Appomattox can be sited in a wetland. (Under current law, a landfill cannot be within five miles up-gradient of any water supply intake or reservoir and cannot impact 1.25 acres or more of wetlands.) The bill prohibits any further exemptions from the landfill-siting requirements unless an environmental impact statement, subject to a public hearing, has been submitted to the Virginia Waste Management Board.
- 47) HB 1462 Solid waste; per ton fees for disposal. CARRIED OVER.** Would establish a \$5 per ton municipal solid waste disposal fee to be collected by localities where the municipal solid waste landfills are located; 50 percent of the money collected would be retained by the host localities for abatement of solid-waste related pollution, groundwater monitoring and cleanup, litter control, recycling, or for other waste-related purposes; and 50 percent would go to the state's Landfill Cleanup and Closure Fund, the Brownfields Restoration and Economic Redevelopment Assistance Fund, and Environmental Emergency Response Fund.
- 48) HJ 247 Municipal solid waste; urging Congress to enact legislation to regulate importation thereof. PASSED.** Memorializes Congress to enact the State Waste Empowerment and Enforcement Provision Act of 2003, which gives state and local governments the authority to regulate the importation of solid waste into their jurisdictions. An identical bill, **SJ 79** (#50 below), also passed.
- 49) SB 315 Green schools program; to promote waste reduction and resource efficiency. PASSED.** Authorizes the Board of Education to assist local school boards in the development and implementation of programs of instruction that comply with the provisions of Standard 1 of the Standards of Quality, specifically relating to citizenship and environmental issues and geography necessary for responsible participation in American society and the international community. Any such "green schools" program will focus on waste reduction through recycling and other mechanisms and educating students to help schools contain costs and to reduce waste production through resource efficiency. The bill *does not require* the Board or any school board in the Commonwealth to implement a green school program, nor is it meant to imply or otherwise indicate that state or local funding is required to develop or implement any green school program.

50) **SJ 79 State Waste Empowerment and Enforcement Provision Act of 2003; urging Congress to promptly enact. PASSED.** See HJ 247 (#48 above).

WATER AND SEWER SYSTEMS

- 51) **HB 100 Water and sewer connections; suspension. FAILED.** Would have provided that a locality or a water and waste authority may suspend connections to its water and sewer systems during periods when mandatory water-conservation measures have been imposed by the locality or by the Commonwealth in the area of the connections.
- 52) **HB 335 Zoning ordinances; to promote quality water resources. FAILED.** Would have provided that the general purpose of promoting the health, safety, or general welfare of the public shall explicitly include the authority—through zoning, subdivision, site-plan and building-permit actions—to regulate, restrict, permit, prohibit, and determine the uses of land *based upon* the present availability of drinking-water resources and upon objective measures of future water-resource availability.
- 53) **HB 601 Water supplies; inspection. PASSED.** Removes the requirement that localities test the public water supply for the presence of methyl tertiary-butyl ether (MTBE).
- 54) **HB 737 Water and sewage systems; mandatory connection in Franklin County. PASSED.** Adds Franklin County to those counties allowed to require connection to their water and sewage systems by owners of property that may be served by such systems and to the list of localities that may provide that taxes or charges imposed for water or sewer use thereof shall be a lien on the real estate served by the water or sewer system. A related bill, **SB 600** (#61 below), also passed.
- 55) **HB 919 Water and sewer authorities; conduits for fiber optic cable. PASSED.** Permits water and sewer authorities to install, own, and operate pipe or conduit to carry fiber optic cable.
- 56) **HB 967 Water systems and small water utilities; requires emergency electricity generation systems. CARRIED OVER.** Would require the owner of a water system or a small water utility to prepare a cost study and file it with the State Corporation Commission if more than 50 percent of the water system's or water utility's customers request the emergency system in writing. The cost study would include an analysis of different options available for an *emergency electricity generation system* and shall itemize all the costs reasonable and necessary relating to the purchase, installation, operation, and maintenance of such a system. The Commission would determine the reasonableness of the cost study, and if a cost study is deemed reasonable, poll the customers of the water system, after providing information regarding the costs involved, to determine whether more than 50 percent of the customers continue to request that the system be installed. If more than 50 percent of a water system's customers continue to request that a system be installed, then the water system would install such a system within a reasonable time and ensure that it is fully operational. The owner of the water system or small water utility would be allowed to recover the costs incurred to comply with the mandate as a part of the monthly billing amortized over a five-year period.
- 57) **SB 110 Water supply plan regulations; effective date. PASSED.** Delays the effective date of water supply plan regulations one year. Under the bill passed in 2003, the SWCB was prohibited from finalizing the water supply plan regulations prior to July 1, 2004. Because the Technical Advisory Committee has not completed its drafting of these regulations, the date on which the regulations can become effective has been delayed until after July 1, 2005.
- 58) **SB 190 Water and sewage systems; mandatory connection in Wythe County. PASSED.** Allows Wythe County, in assuming the obligations of a public service authority, to assume such obligations under the same terms and conditions as applicable to the public service authority.

- 59) SB 351 Subdivision ordinances; provisions to allow locality to determine adequate water supply sources. CARRIED OVER.** Would authorize localities to include in their subdivision ordinances provisions allowing the locality to determine whether there are adequate water sources and drinking water distribution infrastructure to deliver sufficient and safe water for human consumption to meet the demand required by a new subdivision. Before adopting such an ordinance, the locality would have to identify in its comprehensive plan, and in the local or regional water plan required by the state, the (i) adequacy of public water supply facilities that will be used in making such a determination, (ii) the areas where such subdivisions may be located, and (iii) existing water supply and infrastructure needs in the potential growth area. If the locality determined that adequate water supply or related water facilities did not exist, it would have to provide a timeframe of when such supply or facilities will be adequate to meet the water demand.
- 60) SB 400 Water-saving ordinances; localities may imposed. PASSED.** Permits localities to restrict the nonessential use of ground water during declared water shortages or water emergencies. This authority currently applies only to the City of Virginia Beach.
- 61) SB 600 Water and sewage systems; mandatory connection in Franklin County. PASSED.** Adds Franklin County to existing *Virginia Code* provisions that allow certain counties to require connection to their water and sewage systems, or to impose a nonuse fee on residents who have an adequate domestic source of potable water and a system for the disposal of sewage; grants Franklin County authority to treat certain unpaid taxes or charges imposed for water or sewers as a lien on the real estate served by the water or sewer system; and replaces population-bracket language with Amelia County. A related bill, **HB 737** (#54 above), also passed.
- 62) SB 642 Coal and gas road improvement tax; distribution of revenues to water & sewer system projects. PASSED.** Adds sewer systems and lines to water projects as an option for localities to use a portion of the coal and gas road improvement tax revenues, and provides that any revenues generated by the coal and gas road improvement tax and designated for local water or sewer projects shall be distributed to the local public service authority rather than the local governing body.

WATERS OF THE STATE, PORTS AND HARBORS

- 63) HB 24 Rudee Inlet Authority; abolished. PASSED.** Repeals the 1960 act that created the Rudee Inlet Authority, which has reportedly long been dormant and whose duties have been taken over by various city offices of Virginia Beach.
- 64) HB 331 Duck blinds; allows use in certain localities and waters. CARRIED OVER.** Would amend an Act of Assembly to allow floating blinds in the waters of Caroline, Essex, King George, Richmond, and Westmoreland counties and in portions of the Rappahannock and Potomac rivers, so long as they are staked and meet certain siting requirements.
- 65) HB 440 Oil-discharge plans; changes in provisions. PASSED.** Allows operators of tank vessels operating in Virginia waters the option of submitting a U.S. Coast Guard-approved vessel-response plan in place of the state-required oil-discharge contingency plan, and to meet the financial assurance requirement by having a U.S. Coast Guard-approved Certificate of Financial Responsibility. (Under current law, an oil-discharge contingency plan has to be filed and approved by the SWCB and the operator of the tank vessel has to deposit \$500 per gross ton of such vessel to assure against any environmental damage.)
- 66) HB 496 Floodways or floodplains; unlawful to obstruct or contaminate. FAILED.** Would have added floodways and 100-year floodplains (to the existing banks and channels) as areas of state waters that one may not obstruct or contaminate; also would have expanded

venue related to this law to include similar courts in contiguous localities that share such waters as common boundaries.

- 67) HB 535 Big Sandy River watershed; provisions for removing obstructions. PASSED.** Allows localities within the Big Sandy River watershed to bring enforcement actions against any person obstructing or dumping refuse in any tributary of the Big Sandy River; allows localities to remove obstructions that might endanger the public health or safety and to recover such costs; allows localities within the Big Sandy River watershed to require any person to notify the locality before constructing, placing, or putting a bridge, culvert, or drainpipe across the Big Sandy River or its tributaries; and exempts authorized silvicultural activities and activities conducted under a state-agency permit. A related bill, **SB 549** (# 79 below), failed.
- 68) HB 603 No-discharge zones; regulations. PASSED.** Directs the SWCB to adopt certain regulations to control the discharge of sewage from boats and vessels and to require marinas to notify boat patrons of no-discharge restrictions.
- 69) HB 685 Water Protection Permit; provisions. PASSED.** Clarifies, for purposes of obtaining a Virginia Water Protection Permit, that the diversion of water from non-navigable water channels located on private lands is *not* to be considered an impact on instream beneficial uses, so long as the water is returned to the channel undiminished. The bill also provides that a permit application is complete when the SWCB receives from the applicant any additional information it has requested as part of its permit review process; the SWCB then has 120 days to take action on the permit application.
- 70) HB 728 Solid waste; transportation by non-hazardous waste barges fee. FAILED.** Would have authorized the Virginia Waste Management Board to establish a fee of \$7.50 on each ton of non-hazardous solid waste transported by barge or other vessel carrying, loading, or off-loading waste on Virginia waters, and would have prescribed the test required to certify that containers holding such waste are watertight, leak-proof, and designed to prevent the loss or spillage or leakage of waste.
- 71) HB 901 Shipyard Workers Fund, Vocational Incentive Scholarship Program for; created. FAILED.** Would have required the General Assembly to make an annual appropriation of \$150,000 to this fund for scholarships for shipyard workers enrolled in a three-year program of educational instruction at Tidewater Community College.
- 72) HB 949 Subaqueous lands; Governor to convey certain in Elizabeth River to Norfolk City. PASSED.** Authorizes the Governor to convey, in a form approved by the Attorney General, certain subaqueous lands in the Elizabeth River at Norfolk to the City of Norfolk.
- 73) HB 1182 Monacan Bridge. PASSED.** Designates the Lynchburg bypass bridge across the James River between Amherst County and the City of Lynchburg the “Monacan Nation Bridge.” An identical bill, **SB 560** (#80 below), also passed.
- 74) HB 1227 Rappahannock River Basin Commission; created; membership. PASSED.** Creates the Rappahannock River Basin Commission as an independent local entity without political subdivision status, and establishes rules for representation on the Commission, quorum requirements, compensation, and conformity with the Joint Rules Committee's guidelines for collegial bodies.
- 75) HB 1450 Petroleum Storage Tank Fund; reimbursements. PASSED.** Requires that in those instances where third-party claims have been mediated or adjudicated that the reimbursement sought from the Virginia Storage Tank Fund not exceed the portion of the settlement that is reasonable and necessary to compensate the third-party damages caused by the release of petroleum. The SWCB is given the authority to determine what is reasonable and necessary compensation.
- 76) HJ 72 Nutrient management plans; JLARC to study effectiveness of implementation & performance thereof. PASSED.** Directs the Joint Legislative and Review Commission to study the effectiveness of Virginia's nutrient-management plans.

- 77) **SB 267 Rivanna River Basin Commission; created. PASSED.** Establishes the Rivanna River Basin Commission to provide guidance for the stewardship and enhancement of the water and natural resources of the Rivanna River Basin, and to provide a forum in which local governments and citizens can discuss issues affecting the Basin's water quality and quantity and other natural resources.
- 78) **SB 406 Roanoke River Basin Advisory Committee; membership. PASSED.** Returns to the legislative members of this Advisory Committee the power to appoint non-legislative citizen members. (During the 2003 session, the power to appoint the citizen members nominated by PDCs was given to the Speaker of the House of Delegates and the Senate Committee on Privileges and Elections.)
- 79) **SB 549 Big Sandy River watershed; provisions for removing obstructions. FAILED.** Would have allowed any locality located within the Big Sandy River watershed to remove any obstructions dumped, placed, or put in tributaries of the Big Sandy River that might endanger public health or safety, provided that the owner of the property is given reasonable notice and a reasonable time to remove the obstruction, and to recover the costs for the removal of the obstruction from the owner of the property, with an exemption for those activities that are conducted pursuant to a permit issued by a state agency. A related bill, **HB 535** (#67 above), passed.
- 80) **SB 560 Monacan Bridge. PASSED.** See **HB 1182** (#73 above).
- 81) **SB 603 Pollutant Discharge Elimination System permits; changes duration of issuance. CARRIED OVER.** Would require that the duration of a Virginia Pollutant Discharge Elimination System permit be *no less than* five years; currently, such permits are for terms *not to exceed* five years.
- 82) **SB 629 Wetlands mitigation bank; island in Potomac River adjacent to Virginia to be used thereas. PASSED.** Allows an island in the Potomac adjacent to Virginia to be used as a wetlands mitigation bank.
- 83) **SB 686 Sailing vessel Virginia; authorizing Governor to enter into agreement w/Maritime Heritage Foundation. CARRIED OVER.** Would authorize the governor to enter into an agreement with the Virginia Maritime Heritage Foundation for the operation of the sailing vessel *Virginia*; would transfer ownership of the *Virginia* to the Commonwealth, but give responsibility for operation and maintenance of the ship to the Foundation; would set out the minimum requirements of the agreement; and would stipulate that the ship is to be used for trade missions, marketing, economic development, film production, festivals, and other events.

OTHER

- 84) **HJ 313 Commending Virginia Save Our Streams. PASSED.** States that the General Assembly commends Virginia Save Our Streams for its ongoing efforts to encourage citizens to participate in the quest for clean water.

Bills Organized by Fate (Passed, Failed, or Carried Over to 2005)

PASSED

HB 24 Rudee Inlet Authority
 HB 182 Bottomlands, state-owned registration
 HB 440 Oil discharge plans
 HB 445 Erosion and sediment control and stormwater management inspectors
 HB 489 Wetlands boards
 HB 535 Big Sandy River watershed
 HB 601 Water supplies
 HB 603 No discharge zones
 HB 639 Landfills

HB 685 Water Protection Permit
HB 737 Water and sewage systems
HB 758 Hunting, trapping and fishing licenses
HB 883 Conservation easements
HB 919 Water and sewer authorities
HB 930 Septic systems
HB 949 Subaqueous lands
HB 1024 Saltwater fishing licenses and permits
HB 1142 Aquatic nuisance species, nonindigenous
HB 1177 Stormwater management programs
HB 1182 Monacan and Malcolm J. Forbes, Sr., Bridges
HB 1198 Public water supplies
HB 1227 Rappahannock River Basin Commission
HB 1271 Soil and water conservation districts
HB 1278 Oysters and clams
HB 1283 Erosion & Sediment Control Law
HB 1313 William J. Hargis, Jr. Library
HB 1350 Environmental permit fees
HB 1436 Subaqueous lands
HB 1450 Petroleum Storage Tank Fund
HB 1452 Fresh water and saltwater fishing
HJ 72 Nutrient management plans
HJ 247 Municipal solid waste
HJ 313 Commending Virginia Save Our Streams
SB 110 Water supply plan regulations
SB 125 Water wells
SB 190 Water and sewage systems
SB 267 Rivanna River Basin Commission.
SB 315 Green schools program
SB 365 Environmental permit
SB 400 Water-saving ordinances
SB 406 Roanoke River Basin Advisory Committee
SB 426 Stormwater
SB 432 Bottomlands, state-owned
SB 523 Watershed Coordination Program
SB 560 Monacan Bridge
SB 600 Water and sewage systems
SB 605 Water columns for aquaculture purposes
SB 606 Bottomlands, state-owned
SB 629 Wetlands mitigation bank
SB 642 Coal and gas road improvement tax
SJ 79 State Waste Empowerment and Enforcement Provision Act of 2003

FAILED

HB 100 Water and sewer connections
HB 335 Zoning ordinances
HB 446 Menhaden fishery
HB 496 Floodways or floodplains
HB 693 Natural and Historic Resources Fund and Commission
HB 728 Solid waste
HB 797 Newport News reservoir project
HB 901 Shipyard Workers Fund, Vocational Incentive Scholarship Program
HB 962 Concealed weapons
SB 104 Chesapeake Bay Preservation Act
SB 109 Submerged land permit
SB 420 Newport News reservoir project

SB 427 Chesapeake Bay Preservation Act
SB 439 RS & UT
SB 527 Land and Water Conservation Trust Fund
SB 549 Big Sandy River watershed
SB 554 Personal flotation devices
SB 569 Natural and Historic Resources Fund and Commission
SB 586 Game & fish refuges & preserves

CARRIED OVER

HB 331 Duck blinds
HB 719 Chesapeake Bay Preservation Act
HB 747 Sewage systems and public water supplies, local
HB 967 Water systems and small water utilities
HB 1418 Water quality improvement fee
HB 1429 Erosion and Sediment Control Law
HB 1462 Solid waste
HJ 226 Natural aquatic resources
SB 322 Natural resources
SB 351 Subdivision ordinances
SB 603 Pollutant Discharge Elimination System permits
SB 639 Pollutant loading allocations
SB 686 Sailing vessel Virginia



“On March 16, 2004, the Virginia General Assembly adjourned ‘sine die’—‘without another day’—and without a budget, but *not* without some water bills.”

—By Lauren LeBarre and Alan Raflo

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