

# APPENDIX A

## SUMMARY OF ENVIRONMENTAL BILLS OF INTEREST 2008 VIRGINIA GENERAL ASSEMBLY

Each year, the Virginia General Assembly considers scores of bills that could impact the environment and conservation efforts in the commonwealth. This appendix identifies and summarizes several such bills that were considered by the General Assembly in 2008 and indicates whether they “Passed,” “Failed” or were “Carried Over.” For the most part, the summaries are from the Virginia General Assembly Legislative Information System. By going to the LIS Web site (<http://leg1.state.va.us/>), the entire bill as well as its history and patrons can be reviewed. Unless otherwise noted, the summaries provided below describe the bill as originally submitted. Because bills are frequently amended, reference should be made to the LIS web site for final language of bills of interest.

### Senate Bills

**SB43 Environmental impact reports; highway projects.** Requires an environmental impact report in connection with a local highway construction, reconstruction, or improvement project only when such a project is estimated to cost more than \$1 million. The current threshold amount requiring such a report is \$100,000. This bill is identical to HB 1259. **PASSED.**

**SB234 Greenhouse gas emissions; mandatory reporting.** Requires that the State Air Pollution Control Board adopt regulations requiring the reporting of greenhouse gas emissions from stationary sources. The regulations would apply only to those sources that emit more than a de minimis amount of greenhouse gas and that are already required to report emissions of other air pollutants. To the extent possible, reporting requirements will incorporate standards and protocols developed by other widely recognized and verified greenhouse gas inventory programs. Beginning in 2009, the Virginia Department of Transportation is required to provide the Department of Environmental Quality with data necessary to maintain a greenhouse gas emissions inventory for individual road segments throughout the Commonwealth. The Board is also authorized to establish a voluntary program allowing persons to register voluntary reductions in direct or indirect emissions of greenhouse gases. The voluntary program may include the reporting of reductions in emissions from motor vehicle fleets owned by persons otherwise required to report emissions from stationary sources. **FAILED.**

**SB321 Environmental impact of renewable energy electric generating facilities.** Requires the Department of Environmental Quality to consult with other state agencies that have expertise in natural resource management when considering the cumulative impact of new and proposed renewable energy electric generating facilities. Along with such other agencies, the Department

will develop a coordinated recommendation to submit to the State Corporation Commission specifying any mitigation measures and additional site-specific studies. **PASSED.**

**SB386 Application of the Chesapeake Bay Preservation Act.** Redefines the localities that are under the jurisdiction of the Chesapeake Bay Preservation Act (CBPA). Currently, the CBPA applies to specifically named counties and cities that are defined as being located within Tidewater Virginia. The bill changes the definition of which localities constitute Tidewater Virginia to include only those localities wholly east of Interstate 95. Because the definition of Tidewater Virginia in the CBPA also appears in the stormwater law, to ensure that there is no change in the coverage of the stormwater program, the counties and cities currently listed in the CBPA's definition of Tidewater are delineated in the stormwater law. **FAILED.**

**SB423 Air and Water Boards permit issuance process.** Establishes a uniform permit issuance process for the Air Pollution Control Board (Air Board) and the State Water Control Board (Water Board). After issuing a public notice of a pending permit action, if at least 25 individuals have requested a public hearing and the Director finds that the issues raised are germane to the permit action and are not inconsistent with state or federal laws, a public hearing will be held. The Director or the two Boards may convene a meeting under an expedited schedule to reconsider the decision of the Director to grant a public hearing. The meeting may be held electronically if one public forum is available. The Board is required to act on the permit within 90 days of the close of the comment period unless the applicant agrees to an extension of the time period. Persons who commented during the public hearing may address the Air and Water Boards at the meeting where final action on the permit will occur. The Board's decision shall contain a written basis for its decision. The bill also increases membership on the Air Pollution Control Board from five to seven members. However, the two new members are prohibited from voting on any action related to a permit that is under consideration as of January 1, 2008. A qualification of the Air Board members is changed so that no member can be a current employee of an entity subject to a permit or enforcement order of the Air Board. Currently, a majority of the members appointed to the Air Board can represent the public interest and not derive any significant positions of their income from entities subject to permit or enforcement actions. The qualifications of the membership of the Water Board and the Virginia Waste Management Board are changed to require that the members, by their education, training, or experience, be knowledgeable of water quality or waste management, respectively, and shall be fairly representative of conservation, public health, business, and agriculture. This bill is identical to HB 1332. **PASSED.**

**SB470 Natural resources funding.** Provides annual funding for natural resources from (i) 20 percent of the remaining revenues of state recordation taxes that are not currently allocated and (ii) unallocated land preservation tax credits in each calendar year. Of the revenues allocated to natural resources, 17 percent would be used to provide matching grants to local purchase of development rights programs, 16 percent would be distributed to the Virginia Land Conservation Fund, and 67 percent would be distributed to the Agricultural Best Management Practices Cost-Share Program for agricultural best management practices. For the moneys allocated to agricultural best management practices, five percent would be distributed to soil and water conservation districts to provide technical assistance for the implementation of agricultural best management practices. The remaining moneys would be used for matching grants for

agricultural best management practices, with 60 percent of the moneys used for lands exclusively in the Chesapeake Bay watershed and 40 percent of the moneys used for all other lands in the Commonwealth. For the moneys allocated to provide matching grants to local purchase of development rights programs, 60 percent of the moneys would be used for grants for local purchase of the development rights programs of counties and cities wholly or partly within the Chesapeake Bay watershed and 40 percent of the moneys would be used for grants for local purchase of the development rights programs of all other counties and cities. In general, for each \$1 received, the local purchase of development rights program would be required to provide a \$1 match. **CARRIED OVER.**

**SB511 Natural resources funding. Establishes the Virginia Natural Resources Commitment Fund.** The Fund would be capitalized with appropriated funds and moneys from public and private sources. Beginning July 1, 2008, and for the next 10 years moneys in the Fund would be distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP). Fifty-seven percent of the moneys are to be used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the moneys would be used for all other lands in the Commonwealth. Five percent of the moneys would be allocated to soil and water conservation districts. This bill is identical to HB 1335. **PASSED.**

**SB513 Nonpoint source reduction funding.** Authorizes the Governor and General Assembly to provide additional funding in excess of the amount deposited in the Water Quality Improvement Fund from a budget surplus to fund nonpoint source pollution reduction activities. This bill is identical to HB 360. **PASSED.**

**SB594 Dam safety.** Exempts the owners of historically significant dams that do not present an imminent danger from having to correct deficiencies identified in a dam safety inspection conducted by the Department of Conservation and Recreation. **FAILED.**

**SB648 Used motor oil, other fluids for automotive maintenance, and oil filters; statewide recycling program.** Strengthens and broadens the current recycling program for used motor oil and used oil filters to include all automotive maintenance fluids and to require that the Department of Environmental Quality maintain a toll-free hotline number and website for consumers that choose to properly dispose of used motor oil, other fluids for automotive maintenance, and oil filters. **PASSED.**

**SB679 Recovery of fire fighting costs by localities.** Allows a locality to collect the costs for fighting or extinguishing a fire if the fire was set intentionally and the person who set the fire did not prevent the fire from escaping. Further states that any such person shall be liable for the full amount incurred by the locality and any volunteer fire or rescue squad for fighting or extinguishing the fire and any reasonable administrative costs expended to collect such expenses. Also allows a locality to recover costs, up to \$750, from a minor's parents for any fire suppression that is the result of malicious or willful conduct on the part of the minor. The Department of Forestry already has the authority to collect costs expended by the Commonwealth in such circumstances. **PASSED.**

**SB690 Disbursements from Water Quality Improvement Fund.** Authorizes the Department of Environmental Quality to reimburse localities for the costs of nutrient removal upgrades at publicly owned treatment works on a monthly basis so long as there is written certification from the grant recipient that the local share of the project costs has been expended. **PASSED.**

**SB712 Cap and trade system for NO<sub>x</sub> and SO<sub>2</sub>; nonattainment areas.** Provides that the Air Pollution Control Board may prohibit electric generating facilities located within specified nonattainment areas in the Commonwealth from meeting their compliance obligations for pollutants that contribute to ongoing nonattainment in that area through the purchase of allowances for NO<sub>x</sub> and SO<sub>2</sub> only if the Board finds that: (i) the prohibition will directly and quantifiably reduce ambient concentrations of ozone or PM<sub>2.5</sub> in the affected nonattainment area; and (ii) there is no other reasonably available approach to achieve a comparable air quality benefit for the Commonwealth. **CARRIED OVER.**

**SB717 Fossil fuel combustion products permit.** Requires a solid waste permit to authorize the placement of unamended coal combustion byproduct as structural fill in a 100-year flood plain. **FAILED.**

**SB748 Alternative fuels; net emissions increase.** Provides that no permit modifications, trial burns, or other demonstrations are required if the owner of an industrial burner chooses to replace residual oil with processed animal fat, processed fish oil, processed vegetable oil, distillate oil, or any mixture thereof in place of the same quantity of residual oil to fire industrial boilers. The Air Pollution Control Board is also required to adopt regulations containing certain provisions that clarify the process of emissions calculations under the minor new source program. **PASSED.**

**SB752 Brownfields; public notice of voluntary remediation plans.** Requires the Department of Environmental Quality to provide written notice of an application for a voluntary remediation plan to any person who owns a property that abuts or lies within 100 feet of the boundary lines of the subject property or who owns a property that is identified as contaminated by a release on the subject property. Notice must also be published in a newspaper of general circulation. A public comment period of at least 30 days shall follow the issuance of notice. **CARRIED OVER.**

### **House Bills**

**HB18 Department of Environmental Quality.** Amends legislation passed during the 2007 Session of the General Assembly to consolidate the existing three citizen boards--the State Air Pollution Control Board, the State Water Control Board, and the Waste Management Board--into one 11-member citizen board. The existing three citizen boards would retain authority over any applications for permits and amendments pending before the end of 2007 until the earlier of the resolution of the application or June 30, 2010. **FAILED.**

**HB19 Department of Environmental Quality.** Repeals legislation passed during the 2007 Session of the General Assembly to consolidate the existing three citizen boards--the State Air

Pollution Control Board, the State Water Control Board, and the Waste Management Board--into one 11-member citizen board. **FAILED.**

**HB260 Department of Conservation and Recreation.** Allows the Department to acquire abandoned railroad corridors for use as greenways, linear parks, or potential transportation corridors. **FAILED.**

**HB343 Cathode ray tubes; disposal bans.** Permits localities to prohibit the disposal of cathode ray tubes in any waste-to-energy or solid waste disposal facility within its jurisdiction, provided the locality has implemented a recycling program that is capable of handling all cathode ray tubes generated within its jurisdiction. Previously the ban only applied to privately operated landfills. **PASSED.**

**HB344 Computer Recovery and Recycling Act; penalties.** Requires the manufacturer of more than 500 items of computer equipment to adopt and implement a recovery plan providing for the reasonably convenient collection, recycling, and reuse of computer equipment returned by a consumer in the Commonwealth. The manufacturer must also affix a permanent, readily visible label to the computer equipment with the manufacturer's brand before a manufacturer may offer computer equipment for sale in the Commonwealth. Examples of collection methods meeting the recovery plan requirements in this Act include (i) a system by which the consumer may return the computer equipment free of charge; (ii) a system using a physical collection site; or (iii) a system using collection events at which the consumer may return computer equipment. Each manufacturer must annually report on the weight of computer equipment collected, recycled, and reused during the preceding calendar year. **PASSED.**

**HB360 Nonpoint source reduction funding.** Authorizes the Governor and General Assembly to provide additional funding in excess of the amount deposited in the Water Quality Improvement Fund from a budget surplus to fund nonpoint source pollution reduction activities. This bill is identical to SB 513. **PASSED.**

**HB392 Stormwater ordinance.** Authorizes localities classified as MS4 stormwater localities to enact ordinances to enforce stormwater permits. The bill would give these localities the authority to seek civil charges and injunctive relief, and impose civil penalties. Any person who willingly and knowingly violates the ordinance would be subject to a criminal penalty of a Class 1 misdemeanor. **PASSED.**

**HB514 Fossil fuel combustion products permit.** Requires any applicant seeking approval for the use of fossil fuel combustion products as structural fill to (i) publish a notice of his intent to apply for approval for the project from the Department of Environmental Quality (DEQ), (ii) hold a public meeting to answer citizen's questions, and (iii) submit minutes of the meeting to DEQ. The DEQ is not to issue the permit until the applicant has fulfilled these requirements. **FAILED.**

**HB528 Chesapeake Bay ordinance appeals.** Allows localities subject to the Chesapeake Bay Preservation Act to adopt an ordinance that establishes a time limit of at least 30 days for an aggrieved party to appeal a decision of the local board to the circuit court. **PASSED.**

**HB643 Air emissions from major stationary sources.** Requires operators of major stationary sources of air pollution that have facilities (i) whose stacks do not meet good engineering practices and (ii) emit one or more of the criteria pollutants, to demonstrate compliance with all National Ambient Air Quality Standards (NAAQS) by December 31, 2008. If this deadline is not met, then by July 1, 2009, the Department of Environmental Quality shall issue only a permit that ensures modeled compliance with all NAAQS. **FAILED.**

**HB650 Department of Environmental Quality; authority of citizen boards.** Provides that the Air Pollution Control Board and the State Water Control Board may delegate their authority to make permitting decisions to the Director of the Department of Environmental Quality (the authority to issue permits related to waste management is already vested with the Director). Either Board has the discretion to make a final permitting decision if it finds significant public interest in the permit, substantial and disputed issues within the scope of the Board's statutory authority, and that the time required for a public hearing and decision by the Board would not create an unreasonable delay. The membership of all three citizen environmental boards would also be reconfigured so that the membership of each board--the Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board--includes at least one member from the other two boards. **FAILED.**

**HB837 Dam break inundation zones.** Provides localities with the authority to address development in dam break inundation zones. The bill directs developers to assist dam owners with required upgrades and requires additional disclosure and notification procedures for dam owners. The bill contains an enactment clause that specifies that the bill's provisions do not affect site plans or subdivision plans submitted prior to the effective date of the act. **PASSED.**

**HB1083 Submission of environmental impact report on major state projects.** Exempts counties, cities, and towns from submission of environmental impact reports on highway construction, reconstruction, and improvement projects estimated to cost more than \$1 million. This bill was incorporated into HB 1259. **FAILED.**

**HB1115 Payment for forest protection.** Increases the annual amount a locality pays to the State Forester to provide forest fire protection, detection, prevention, and suppression. Beginning July 1, 2008, the amount localities will pay for such services will increase from the current five cents per acre to seven cents per acre and starting July 1, 2009, the payments will increase to nine cents per acre. **PASSED.**

**HB1116 Environmental impact reports.** Requires an environmental impact report be done for any major state construction project that will cost \$500,000 or more. The current threshold amount requiring such a report is \$100,000. **PASSED.**

**HB1142 Virginia Recreational Facilities Authority.** Delays the reversion of title to real property from the Virginia Recreational Facilities Authority to the Commonwealth, in the event that the Authority ceases to operate a project, until July 1, 2009. This bill contains an emergency clause. **PASSED.**

**HB1214 Sale of trees from state-owned forests.** Increases to \$50,000 the minimum threshold at which public bidding is required for sales of trees taken from state forests. Currently, the State Forester is required to solicit bids if the underlying value of the trees is greater than from \$10,000. **PASSED.**

**HB1230 Greenhouse gas emissions; mandatory reporting.** Requires that the State Air Pollution Control Board adopt regulations requiring the reporting of greenhouse gas emissions from stationary sources. The regulations would apply only to those sources that emit more than a de minimis amount of greenhouse gas and that are already required to report emissions of other air pollutants. The Board is also authorized to adopt regulations that require those same parties to report greenhouse gas emissions from fleets of motor vehicles. Beginning in 2008, the Virginia Department of Transportation is required to provide the Department of Environmental Quality with data necessary to maintain a greenhouse gas emissions inventory for individual road segments throughout the Commonwealth. **FAILED.**

**HB1259 Environmental impact reports; highway projects.** Requires an environmental impact report in connection with a local highway construction, reconstruction, or improvement project only when such a project is estimated to cost more than \$1 million. The current threshold amount requiring such a report is \$100,000. This bill incorporates HB 1083. This bill is identical to SB 43. **PASSED.**

**HB1332 Air and Water Boards permit issuance process.** Establishes a uniform permit issuance process for the Air Pollution Control Board (Air Board) and the State Water Control Board (Water Board). After issuing a public notice of a pending permit action, if at least 25 individuals have requested a public hearing and the Director finds that the issues raised are germane to the permit action and are not inconsistent with state or federal laws, a public hearing will be held. The Director or the two Boards may convene a meeting under an expedited schedule to reconsider the decision of the Director to grant a public hearing. The meeting may be held electronically if one public forum is available. The Board is required to act on the permit within 90 days of the close of the comment period unless the applicant agrees to an extension of the time period. Persons who commented during the public hearing may address the Air and Water Boards at the meeting where final action on the permit will occur. The Board's decision shall contain a written basis for its decision. The bill also increases membership on the Air Pollution Control Board from five to seven members. However, the two new members are prohibited from voting on any action related to a permit that is under consideration as of January 1, 2008. A qualification of the Air Board members is changed so that no member can be a current employee of an entity subject to a permit or enforcement order of the Air Board. Currently, a majority of the members appointed to the Air Board can represent the public interest and not derive any significant positions of their income from entities subject to permit or enforcement actions. The qualifications of the membership of the Water Board and the Virginia Waste Management Board are changed to require that the members, by their education, training, or experience, be knowledgeable of water quality or waste management, respectively, and shall be fairly representative of conservation, public health, business, and agriculture. This bill is identical to SB 423. **PASSED.**

**HB1335 Natural resources funding.** Establishes the Virginia Natural Resources Commitment Fund. The Fund would be capitalized with appropriated funds and moneys from public and private sources. Beginning July 1, 2008, and for the next 10 years, moneys in the Fund would be distributed to the Department of Conservation and Recreation's Agricultural Best Management Practices Cost-Share Program for the implementation of agricultural best management practices (BMP). Fifty-seven percent of the moneys are to be used for matching grants to implement BMPs on agricultural lands exclusively in the Chesapeake Bay watershed and 38 percent of the moneys would be used for all other lands in the Commonwealth. Five percent of the moneys would be allocated to soil and water conservation districts. This bill is identical to SB 511. **PASSED.**

**HB1408 Eligibility for betterment loans.** Directs the Board of Health and the Director of the Department of Environmental Quality to develop procedures for qualifying the owners of failing septic tanks, underground storage tanks, and contaminated dry cleaning stores, for betterment loans to be provided by private lenders. **FAILED.**

**HB1443 Streamlined permitting process for alternative and renewable energy facilities.** Requires the Air Pollution Control Board to develop procedures for the expedited review of applications for the construction of a qualified energy generator. The expedited procedures cap the permit fees at \$50 and require processing of an application to be completed within 60 days. A qualified energy generator is a commercial facility located in the Commonwealth with the capacity annually to generate not more than five megawatts of electricity, or its equivalent in fuel, steam, or other form of energy, that is generated or produced from biomass. The measure does not apply to facilities that are subject to a major new source review program required by the federal Clean Air Act. **PASSED.**

**HB1466 Environmental impact of renewable energy electric generating facilities.** Requires the Department of Environmental Quality to evaluate information provided by state agencies with expertise in natural resource management regarding the potential environmental impacts of a proposed renewable energy electric generating facility. The Department is required to coordinate the development of consensus recommendations to address the facility's potential adverse environmental impacts. The recommendations shall identify specific measures, including additional site studies, to mitigate or minimize these adverse environment impacts. **FAILED.**

**HB1533 Television recycling programs; manufacturer fees; disposal ban.** Bans the disposal of covered televisions and component parts as solid waste effective January 1, 2009. The bill requires manufacturers of televisions covered by the act to pay a \$5,000 per year state registration fee and report to the Department of Environmental Quality on the weight, in pounds, of televisions sold in the Commonwealth. The Department will use the fees collected to provide reimbursements to localities implementing television recycling programs in compliance with criteria established by the Department. If a locality does not implement a television recycling program, the Department shall initiate a program for residents in that locality. Both the Department and the Office of the Attorney General have authority to enforce the provisions of this act. **CARRIED OVER.**

**HB1548 Recyclable construction and demolition debris.** Prohibits publicly owned landfills from accepting three or more tons of construction and demolition debris per hauler trip if there are recycling facilities available in the area or there is a construction and demolition landfill in the area. **CARRIED OVER.**

**HB1549 Recycling glass containers.** Requires all "on-premises" licensees of the Virginia Alcoholic Beverage Control Board to recycle their glass containers, if the locality in which they are located is within 50 miles of a recycling center. A \$50 civil penalty is assessed on anyone who violates this requirement. **FAILED.**

**HB1552 Erosion and sediment control plan.** Allows any person creating and operating stream restoration banks in more than one jurisdiction to file general erosion and sediment control specifications for stream restoration banks annually with the Virginia Soil and Water Conservation Board. **PASSED.**

**HB1567 Nonpoint source pollution; commercial lawn care providers.** Expands an existing training program for nutrient management training to include a voluntary program for commercial providers of lawn care or landscaping services to reduce nonpoint source pollution. Businesses that employ at least one individual trained and certified under a nutrient management program are eligible to receive a "Friend of the Bay Award." **CARRIED OVER.**

<http://dls.state.va.us/pubs/summary/2008/sessumtc.htm>

