

APPENDIX A

SUMMARY OF ENVIRONMENTAL BILLS OF INTEREST 2010 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 2010 and indicates whether they “Passed”, “Failed” or were “Carried Over”. Note that the General Assembly sometimes incorporates provisions from several bills in one substitute bill. Thus a bill may have failed, but all or some of its provisions have been “incorporated” in another bill. The summary for the bill will so note when this occurs.

The major substantive provisions of each measure are listed as summaries prepared by Virginia legislative staff. The appropriate bill number and patron are noted so that one can obtain further information, if needed. A researcher should refer to the enrolled bill, the appropriate chapter of the 2010 Acts of Assembly, or the Legislative Information System on the Internet (<http://leg1.state.va.us/lis.htm>) for detailed information on legislation.

These summaries reflect actions of the regular session of the 2010 General Assembly through adjournment *sine die* on March 14, 2010. Many of the measures are subject to gubernatorial review and veto. Therefore, some measures may be amended and some may not become law.

Highlights

Stormwater management regulations. The measure delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The measure provides for the regulation to be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency’s Chesapeake Bay-wide total maximum daily load, but no later than December 1, 2011. The measure also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. **PASSED**

Wastewater discharge permits. The measure requires the owner or operator of a wastewater treatment facility with a discharge greater than 1,000 gallons per day up to 39,999 gallons per day that has not begun the discharge of pollutants prior to January 1, 2011, to demonstrate to the Department of Environmental Quality acquisition of waste load allocations sufficient to offset nitrogen and phosphorus discharges. **PASSED**

Urban development areas. The measure sets certain densities in urban development areas according to the population of the locality. The law requires that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. **PASSED**

Green jobs tax credit. The measure allows a \$500 income tax credit for the creation of each “green” job with a salary of at least \$50,000 for taxable years beginning on and after January 1, 2010. **PASSED**

Regulation of signs in highway rights-of-way. The measure allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated, the sign owner has the right to reclaim the sign within 10 business days. Signs installed on private property without the use of equipment do not require Miss Utility notification before installing the sign. **PASSED**

Coal surface mining. The measure would prohibit the issuing of a permit for coal surface mining operations unless certain conditions relating to the disposal of waste materials are met. **FAILED**

Senate Bills

SB272 Biodiesel and green diesel; procurement by state public bodies. Requires the Department of General Services to establish the conditions under which state public bodies may procure diesel fuel containing, at a minimum, two percent, by volume, biodiesel fuel or green diesel fuel, for use in on-road internal combustion engines. The bill also permits any state public body to establish a pilot program to procure and use such biodiesel fuel or green diesel fuel. *Patron – Whipple. PASSED*

SB346 Land conservation practices; information management. Requires the Secretary of Natural Resources, with assistance from the Secretary of Agriculture and Forestry, to establish and maintain a database of the critical data attributes for onsite best management practices that limit the amount of nutrients and sediment entering state waters. The database is intended to document voluntary actions taken by the agricultural and silvicultural sectors and should enable the application of the collected data towards projections of progress towards Virginia’s water quality goals. The bill declares that an emergency exists and that the bill is effective upon passage. *Patron – Hanger. PASSED*

SB109 Green Public Buildings Act. Requires executive branch agencies and institutions entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, to meet standards at least as stringent as the LEED or Green Globes standards. Exemptions from the requirement may be granted by the Director of the Department of General Services upon a finding of special circumstances that make construction or renovation to the standards impracticable. *Patron – Petersen. FAILED*

SB128 Air Pollution Control Board; regulations under the Clean Air Interstate Rule.

Retains the authority of the Air Pollution Control Board to provide for participation in the EPA-administered cap and trade system for NO_x and SO₂ to the fullest extent permitted by federal law, but prohibits the board from requiring that electric generating facilities located in a nonattainment area meet NO_x and SO₂ compliance obligations without the purchase of allowances from in-state or out-of-state facilities unless such nonattainment area was designated as such prior to January 1, 2010. *Patron – McDougle. PASSED*

SB395 Stormwater management regulations; effective date. Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay-wide Total Maximum Daily Load, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. This bill incorporates SB 677, SB 245, and SB 681. This bill is identical to HB 1220. *Patron – Wagner. PASSED;*

SB627 Nutrient reduction credits. Clarifies who receives credit for the nutrient reductions associated with a stormwater nonpoint nutrient offset. Offsets are used to achieve compliance with construction site stormwater nutrient discharge requirements. The nonpoint nutrient offsets system works very similar to wetland banks. These offsets are only available when capturing all nutrients is too difficult on a development site. If the land disturbing activity using a non-point nutrient offset discharges to an MS4, the locality receives credit toward its nutrient allocation. If the discharge is not to a MS4 then the reductions are applied toward compliance with the nutrient allocation applicable to that area. *Patron – Wagner. PASSED*

SB659 Outer Continental Shelf; air pollution control regulations. Requires the State Air Pollution Control Board, by January 1, 2011, to adopt any regulations necessary to implement and enforce the requirements of § 328 of the Clean Air Act relating to requirements to control air pollution from Outer Continental Shelf sources. The regulations shall not differ materially from the regulations promulgated by the U.S. Environmental Protection Agency in implementing such provision of the Act. The measure also directs the Department of Environmental Quality to request the Administrator of the U.S. Environmental Protection Agency to delegate to the Commonwealth any authority the Administrator has under the Clean Air Act to implement and enforce § 328 of the Clean Air Act. *Patron – Wagner. PASSED*

SB686 Uniform environmental covenants. Authorizes the Department of Environmental Quality to enter into environmental covenants with interest holders in real property that restrict the use of the real property. The covenants are intended to survive transfers of ownership interests in the land or operations of law that may otherwise terminate the covenant. The bill spells out the recordation process and notice to subsequent holders of interest. Prior held interests are not affected by the covenant. The bill authorizes the Department of Environmental Quality to establish fees to be paid by the fee simple owner of the real estate subject to the covenant in order to fund the program. *Patron – Reynolds. PASSED*

SB235 Solid waste management fees. Requires the Waste Management Board to periodically review the permit fees and the annual fees paid by sanitary landfills or other facilities that dispose, treat or store nonhazardous solid waste. This review is to be done to ensure that the fees collected are sufficient to cover at least 75 percent, but no more than 100 percent, of the direct costs of processing an application, performing inspections and taking enforcement actions.

Patron – Watkins. FAILED

SB245 Stormwater management programs. Delays the effective date of regulations that establish local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater management from July 1, 2010, to July 1, 2011. Any regulation adopted prior to this date shall be considered outside the scope of authority granted by the General Assembly. This bill was incorporated into SB 395. *Patron – Watkins. FAILED*

SB583 Application of pesticides and fertilizers; civil penalty. Prohibits commercial providers of lawn care and landscaping services from broadly applying pesticides and fertilizers onto impervious surfaces such as streets and driveways. *Patron – Marsden. FAILED*

SB677 Stormwater regulations. Delays the effective date of stormwater regulations establishing local program criteria and delegation procedures and the water quality and water quantity criteria until July 1, 2011. The bill also requires the Department of Conservation and Recreation, in consultation with the Department of Environmental Quality, to determine the effect the total maximum daily load (TMDL) allocation for the Chesapeake Bay may have on these regulations. If the agency finds that the TMDL implementation plan approved by the Environmental Protection Agency requires a change in the criteria, the Virginia Soil and Water Conservation Board is to adopt a new regulation that is consistent with the source allocations made in the approved TMDL plan. This bill was incorporated into SB 395. *Patron – Hanger. FAILED*

SB681 Stormwater regulations. Delays the effective date of regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater to no later than September 1, 2011. The bill also requires the Virginia Soil and Water Conservation Board to conform the regulation to be consistent with this effective date. This bill was incorporated into SB 395. *Patron – Whipple. FAILED*

SB708 Water Quality Improvement Fund; nutrient offsets. Creates the Nutrient Offset Fund as a subfund of the Virginia Water Quality Improvement Fund to be administered by the Director of the Department of Environmental Quality for the purchase of nutrient reductions certified under the Chesapeake Bay Watershed Nutrient Credit Exchange Program. Using moneys from the subfund, the Director of the Department of Environmental Quality may enter into long-term contracts with producers of nutrient offsets to purchase such offsets. Priority shall be given to nutrient offsets produced from facilities that generate electricity from animal waste. The nutrient offsets purchased with moneys from the subfund will be available for sale to owners or operators of new or expanded facilities required to offset nutrient loads through the watershed general permit. *Patron – Hanger. FAILED*

SB393 Virginia Offshore Wind Project Development Commission. Creates the Virginia Offshore Wind Project Development Commission to facilitate the development of wind-powered

electric energy facilities located off the coast of the commonwealth beyond the commonwealth's three-mile jurisdictional limit. The commission is charged, among other tasks, with applying to the U.S. Minerals Management Service for leases or easements for sites for such projects and applying to the U.S. Department of Energy for up to \$4 billion in loan guarantees for such projects. This bill was incorporated into SB 577. *Patron – Wagner. FAILED*

SB623 Income tax; corporate and individual; green jobs tax credit. Allows a \$500 income tax credit for the creation of “green” jobs paying an annual salary in excess of \$50,000 for taxable years beginning on and after January 1, 2010 but before January 1, 2015. Each taxpayer is allowed a credit for up to 350 new green jobs. This bill is identical to HB 803. *Patron – Hanger. PASSED*

SB143 Income tax; Renewable Energy Job Creation tax credit. Provides for a grant to be paid from newly created Green Jobs Grant Program Fund to corporations for each “Renewable Energy Job” created and filled. The amount of the grant for each such job is \$500 for each salary of \$50,000 and more a year and may be taken for four years. A Renewable Energy Job is employment in an industry related to renewable alternative energies. The credit is available for taxable years beginning on or after January 1, 2010, but before January 1, 2015. All grants under this section shall be subject to the appropriation of moneys by the General Assembly to the Fund for payment of the grants. *Patron – Miller, J.C. FAILED*

SB39 Renewable portfolio standards; forest products. Removes the requirement that utilities participating in a renewable portfolio standard (RPS) program collectively use no more than 1.5 million tons of forest products such as wood chips, bark, and sawdust each year towards meeting RPS goals. *Patron – Stuart. FAILED*

SB71 Energy efficiency resource standard. Requires each electric utility to implement a portfolio of cost-effective electric utility energy efficiency programs that will reduce the consumption of electric energy by its retail customers by 0.3 percent of the forecast consumption for 2011, 3.9 percent of the forecast consumption for 2015, and 12.2 percent of the forecast consumption for 2022. An electric utility may seek rate adjustment clauses to recover the costs of its cost-effective electric utility energy efficiency programs with an enhanced rate of return on such costs of 100 basis points, if the electric utility achieves consumption reductions of not less than 100 percent of the amounts scheduled or 150 basis points if it achieves reductions of 125 percent or more of the amounts scheduled. An electric utility that fails to achieve the scheduled consumption reductions shall make alternative compliance payments of \$0.075 for every kilowatt hour by which the utility failed to meet the scheduled consumption reductions. Utilities are not entitled to recover alternative compliance payments from customers. Alternative compliance payments are to be deposited in a Virginia Energy Efficiency and Conservation Fund and used to provide financial incentives for the implementation of energy efficiency and conservation programs. *Patron – McEachin. FAILED*

SB150 Energy efficiency programs; rate recovery options for utilities. Eliminates the ability of an investor-owned utility to recover revenue reductions that result from implementation of energy efficiency programs. The bill also requires the State Corporation Commission to only approve such a petition for a rate increase if it finds that the energy efficiency program will result

in a net cost savings to customers after a reasonable period of time and the program is in the public interest. *Patron – Stuart. FAILED*

SB450 Mandatory renewable energy portfolio standard program. Provides for a mandatory renewable energy portfolio standard program. Under current law, the renewable energy portfolio standard program is a voluntary program to which investor-owned utilities apply to receive certain incentives. The bill creates a mandatory RPS program that retains the existing RPS goals and positive incentives and authorizes the SCC to charge a noncompliance fee to utilities that do not meet the RPS goals. The bill also creates the Virginia Sustainable Energy Fund into which utilities that fail to meet the program goals pay noncompliance fees. *Patron – Whipple. FAILED*

SB729 Electric utilities; alternative energy research and demonstration projects. Establishes a procedure for an investor-owned public utility to obtain approval of the State Corporation Commission for alternative energy research and demonstration projects. Such projects are research projects implemented primarily to collect information regarding the feasibility and cost effectiveness of alternative energy technologies, including offshore wind energy, solar energy, energy storage other than pump storage, distributed renewable power programs and tariffs and customer-based metering energy management and efficiency projects. The utility may recover the costs of an approved project, with a fair return thereon, through an adjustment to rates. A utility is limited to annual investment in such projects of the lesser of (i) 1.5 percent of the electric utility's revenues from operations in Virginia for the preceding year or (ii) \$100 million. A project may be approved if the utility demonstrates that the project will satisfy one or more of the following: (a) enhance the electric utility's understanding of the effect of emerging energy technologies on the utility's systems and customers; (b) promote economic development; (c) provide environmental benefits; and (d) supplement any of the electric utility's other renewable energy or energy efficiency initiatives. This measure expires on July 1, 2015. *Patron – McEachin. FAILED*

SB404 High Occupancy Vehicle lanes; clean special fuel vehicles; government use. Removes requirement that the Commissioner of the Department of Motor Vehicles provide written regulations before the Department of Motor Vehicles may issue government-use license plates for clean special fuel vehicles. *Patron – Petersen. PASSED*

SB552 HOV lanes. Extends the "sunset" on use of HOV lanes by clean special fuel vehicles, regardless of the number of their occupants, until July 1, 2011, but only if they are not traveling on I-66, I-95, or I-395. *Patron – Barker. PASSED*

SB267 Virginia Commission on Energy and Environment. Requires the Division of Energy to present drafts of updates to the Virginia Energy Plan to the Commission on Energy and Environment; ensures the commission's responsibility to review and consider the direct and indirect impacts of energy production and use on the commonwealth's environment and natural resources; and allows the commission to review and consider the impact of environmental laws, regulations, and initiatives on the commonwealth's energy supplies. *Patron – Whipple. FAILED*

SB123 Single lot development; stormwater management. Requires the developer of a single lot to provide stormwater management where substantial redevelopment of the lot is proposed. Defines “substantial redevelopment” as land-disturbing activities that occur on more than 15 percent of the square footage of any single lot. *Patron – Petersen.* **FAILED**

SB198 Aboveground liquid fertilizer storage tanks. Requires localities in which an aboveground liquid fertilizer storage tank (ALFST) with a capacity of 100,000 gallons or more is located to adopt an ordinance that regulates the installation, operation, retrofitting, maintenance, repair, abandonment and removal of such tanks. The locality is authorized to establish a fee schedule for registration of these tanks. The ordinance would require the owner or operator of the tank to develop a discharge contingency plan that ensures a discharge from any regulated tank will be properly contained, mitigated and cleaned up. While the bill provides a framework for the ordinance, it allows the locality to enact an ordinance that is more restrictive or more extensive in scope than is required by the Code. *Patron – Blevins.* **FAILED**

SB551 Local rezoning actions. Provides for more limited review by VDOT when a property being considered for rezoning has already been subject to a VDOT review in connection with development of a local comprehensive plan. *Patron – Barker.* **CARRIED OVER**

SB650 Regulation of stormwater. Amends current law by removing the requirement that waivers given to federal, state or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency’s storm drainage or stormwater control facilities. *Patron – Quayle.* **CARRIED OVER**

SB64 Local government authority to regulate signs. Provides that a zoning ordinance may include provisions for the regulations of signs in the highway rights of way. Localities may also adopt an ordinance in order to control signs within any highway rights of way and to control local enforcement of such signage. If a locality enacts an ordinance to regulate signs and also authorizes volunteers to enforce the provisions of such an ordinance, the volunteer, and any local government employee, will be personally liable to the owner of the signs for any damage that may result from such enforcement. Additionally, the Commonwealth Transportation Commissioner may enter into agreements with any locality, instead of just Fairfax County, authorizing local law-enforcement agencies to act as agents of the commissioner for purposes of this legislation. Finally, this legislation limits the definition of excavation to not include installation of a sign that is installed by pushing metal, plastic or wooden poles in the ground. This bill is identical to HB 553. *Patron – Lucas.* **PASSED**

SB110 Clean energy financing. Gives localities the authority to, in order to secure loans for the initial acquisition and installation of clean energy improvements, place liens equal in value to the loan against any property where such clean energy systems are being installed. Further allows the locality to bundle the loans for transfer to private lenders in such a manner that would allow the liens to remain in full force to secure the loans. *Patron – Petersen.* **PASSED**

SB222 Department of Transportation land use review. Exempts localities, public agencies and citizens' groups from payment of certain department fees for review of land use proposals. *Patron – Puller. PASSED*

SB246 Civil penalties for violations of noise ordinance. Authorizes the governing body of a locality to adopt civil penalties for violations of noise ordinances. The penalty for an initial violation shall not exceed \$250 and penalties for subsequent violations shall not exceed \$500. This bill incorporates SB 120. *Patron – Watkins. PASSED*

SB291 Donations by localities; energy efficiency. Provides that a locality may make gifts and donations to any nonprofit tax-exempt organization that is engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality. This bill is identical to HB 436. *Patron – Deeds. PASSED*

SB420 Urban development areas. Sets certain densities in urban development areas according to the population of the locality that designated the urban development area. The bill also requires that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The bill mandates that the Commission on Local Government report on localities' compliance with the statute requiring the designation of urban development areas. This bill is identical to HB 1071. *Patron – Vogel. PASSED*

House Bills

HB970 Designation of annual surplus to the Transportation Trust Fund. Increases from two-thirds to 75 percent the amount of the general fund surplus designated to the Transportation Trust Fund within the comptroller's annual report following the close of each fiscal year. The governor would include in his budget bill an amount for deposit into the Transportation Trust Fund equivalent to the amount designated by the comptroller. *Patron – Rust. FAILED*

HB1264 Department of General Services; Green Public Buildings Act. Requires public bodies entering the design phase for construction of a new building greater than 5,000 gross square feet in size, or renovating such a building where the cost of renovation exceeds 50 percent of the value of the building, to build to either the LEED Silver or Green Globes two globe standards. The buildings shall be designed, constructed, verified and operated to achieve energy savings that exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004 (Energy Standard for Buildings Except Low-Rise Residential Buildings) by at least 15 percent for new construction and 10 percent for major renovation. In addition, water systems designed for such buildings shall be required to provide water use savings of at least 25 percent over the baseline standard established in the federal Energy Policy Act of 1992. Exemptions from the requirement may be granted by the Director of the Department of General Services for state construction projects or by the governing body of a locality or school board for local projects. *Patron – Hope. FAILED*

HB1144 State employee telecommuting and alternative work schedule goals. Increases the target for eligible state employee participation in telecommuting and alternative work schedules

to 40 percent in each respective program by January 1, 2012. *Patron – Scott, J.M.* **CARRIED OVER**

HB1088 Coyote control. Requires the Commissioner of Agriculture and Consumer Services to join in a cooperative agreement with the federal government to reestablish the Virginia Cooperative Coyote Damage Control Program to control coyotes that pose a danger to agricultural animals. *Patron – Crockett-Stark.* **PASSED**

HB326 Mercury thermostats recycling program. Requires the Virginia Waste Management Board to adopt regulations to encourage the recycling of thermostats containing mercury. The bill also authorizes localities to prohibit the disposal of mercury thermostats in any privately operated landfill within its jurisdiction, so long as the locality has implemented a recycling program that is capable of handling all of the mercury thermostats within the jurisdiction. Currently, a similar program exists for the recycling of cathode ray tubes. *Patron – Plum.* **PASSED**

HB438 Dam safety. Requires the Soil and Water Conservation Board to establish an incremental damage analysis procedure that provides for a new standard for the spillway design requirement. The bill requires the board to adopt regulations that consider the impact of downstream limited-use or private roadways with low traffic volume and low public safety risk in the determination of the hazard potential classification of an impounding structure. The bill also allows an owner of a dam who has received a report from the board containing recommendations for the correction of deficiencies in the dam to submit his own plan for such corrections. One of the two criteria for designating a dam as unsafe is changed. Currently, if there are serious deficiencies in the design or construction of the dam that, if left unaddressed, could result in a failure that may result in loss of life or damage to downstream property, the dam is cited as being unsafe. The new criterion would be that such deficiencies may result in the loss of life or “significant” damage to downstream property. *Patron – Toscano.* **PASSED**

HB501 Scenic river. Designates a seven-mile portion of the Jordan River as a component of the Virginia Scenic Rivers System. *Patron – Gilbert.* **PASSED**

HB503 Scenic river. Designates a 10-mile portion of the Hughes River as a component of the Virginia Scenic Rivers System. *Patron – Gilbert.* **PASSED**

HB619 Erosion and sediment control; penalty. Removes the specific authority of a locality to impose a \$1,000 civil penalty on a person who engages in a land-disturbing activity without having an approved plan. Instead, any violation of any erosion and sediment control regulation or order of the Virginia Soil and Water Conservation Board, any provision of a local program, or any condition of a permit will be subject to a civil penalty of \$100 to \$1,000. *Patron – Orrock.* **PASSED**

HB1100 Stormwater management facilities; liability. Provides that a common interest community shall enjoy limited liability protection relating to a stormwater management facility located on property owned by that community if: (i) the common interest community cedes the responsibility for the maintenance, repair and replacement of a stormwater management facility

to the commonwealth or a political subdivision thereof, (ii) the action has been memorialized by contract or other instrument executed by both parties, and (iii) the commonwealth or the governing body of the political subdivision accepted the responsibility ceded by the common interest community in writing or by resolution. Maintenance, repair and replacement responsibilities may include the cleaning of the facility, maintenance of adjacent grounds which are part of the facility, maintenance and replacement of fencing where the facility is fenced and posting of signage indicating the identity of the governmental entity which maintains the facility. The immunity granted by this provision does not extend to actions or omissions by the landowner constituting intentional or willful misconduct or gross negligence. *Patron – Sickles.* **PASSED**

HB1220 Stormwater management regulations; effective date. Delays the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria. The regulation, however, shall be adopted within 280 days after the establishment of the U.S. Environmental Protection Agency's Chesapeake Bay-wide Total Maximum Daily Load, but no later than December 1, 2011. The bill also directs the Virginia Soil and Water Conservation Board to establish an advisory panel to review the regulation and make recommendations on possible revisions to the regulation. This bill incorporates HB 1311 and HB 155. This bill is identical to SB 395. *Patron – Hugo.* **PASSED**

HB1300 Air Pollution Control Board; regulations under the Clean Air Interstate Rule. Retains the authority of the Air Pollution Control Board to provide for participation in the EPA-administered cap and trade system for NO_x and SO₂ to the fullest extent permitted by federal law, but prohibits the board from requiring that electric generating facilities located in a nonattainment area meet NO_x and SO₂ compliance obligations without the purchase of allowances from in-state or out-of-state facilities unless such nonattainment area was designated as such prior to January 1, 2010. *Patron – Kilgore.* **PASSED**

HB1320 Dam safety. Authorizes the Director of the Department of Conservation and Recreation, with the approval of the Virginia Soil and Water Conservation Board, to award grants from the Dam Safety, Flood Prevention and Protection Assistance Fund to local governments and private entities for dam break analysis, the mapping and digitization of dam break inundation zones and incremental damage analysis. Currently, only local governments are eligible to receive grants. The bill also establishes the Dam Safety Administrative Fund, which is capitalized with moneys from the dam application permit fees. The moneys in the fund are to be used for administration of the dam safety program. *Patron – Sherwood.* **PASSED**

HB129 Erosion and sediment control. Exempts certain activities from the Erosion and Sediment Control Law (E&S) as land-disturbing activities if certain practices are followed. Under the bill the harvesting of forest crops would not be considered a land-disturbing activity and therefore would not be regulated under the E&S law if the area on which the harvesting occurs is: (i) reforested artificially or naturally in accordance with a forest management plan developed by a professional forester or (ii) converted to agricultural or improved pasture use by following a conservation plan approved by the soil and water conservation district. Currently, such harvested areas can be exempted from the E&S law if other types of restoration procedures are implemented. *Patron – Pollard.* **FAILED**

HB136 Scenic river. Designates a portion of the Blackwater River as a component of the Virginia Scenic Rivers System. This bill was incorporated into HB 951. *Patron – Tyler.*
FAILED

HB155 Stormwater management regulations. Delays for two years the Department of Conservation and Recreation's regulations governing the stormwater management program that were to be implemented on July 1, 2010. This bill was incorporated into HB 1220. *Patron – Dance.* **FAILED**

HB375 Removal of mercury switches from scrap and recycled vehicles. Requires manufactures to submit mercury minimization plans to the Department of Environmental Quality that include information on mercury switch removal from motor vehicles. Vehicle manufacturers are required to pay specified costs associated with mercury switch removal. Recyclers must remove all switches before transferring ownership of a vehicle to a scrap processing facility and within 180 days after the receipt of a vehicle. *Patron – Cosgrove.*
FAILED

HB521 Plastic bags; use by retailers. Bans the use of plastic carryout bags by retailers at the point of sale unless such bags are (i) durable plastic bags with handles; (ii) at least 2.25 mils thick; and (iii) specifically designed and manufactured for multiple reuse. *Patron – Morrissey.*
FAILED

HB890 Scenic river. Designates a portion of the Blackwater River as a component of the Virginia Scenic Rivers System. This bill was incorporated into HB 951. *Patron – Barlow.*
FAILED

HB1311 Stormwater regulations. Delays the effective date of regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria for stormwater to no later than September 1, 2011. The bill also requires the Virginia Soil and Water Conservation Board to conform the regulation to be consistent with this effective date. This bill was incorporated into HB 1220. *Patron – Bulova.* **FAILED**

HB329 Lawn fertilizers; penalty. Prohibits the application of fertilizers that contain phosphorus for use on lawns, golf courses, parks and cemeteries. The prohibition does not apply to fertilizer products primarily intended for gardening, trees, shrubs or indoor plants. The bill prohibits the application of fertilizer that contains phosphorus when the ground is frozen. Any fertilizer that runs onto impervious surfaces has to be immediately contained and collected. New lawns or lawns that have had soil tests in the last three years showing phosphorus levels are deficit based upon Department of Conservation and Recreation's nutrient management standards and criteria can use fertilizers that contain phosphorus. Beginning January 1, 2011, no person can display for sale lawn fertilizer that is labeled as containing phosphorus; however, such products can be stored off the sales floor and may be sold upon request. Also beginning on this date, a business selling fertilizers has to provide signage that informs the public of the new law and noting the effects of phosphorus on state waters. Any person who violates provisions of the new law may be assessed a civil penalty by the Department of Conservation and Recreation of

up to \$250. The moneys collected will be deposited in the Water Quality Improvement Fund.

Patron – Plum. CARRIED OVER

HB1319 Air pollution emissions. Defers to the U.S. Environmental Protection Agency (USEPA) the enforcement of any carbon dioxide standards or cap and trade provisions that are included in the federal Clean Air Act. The bill requires the governor, in consultation with the attorney general, to examine these provisions and determine whether Congress has the authority to enact mandates upon the states. The governor is to report his findings to the General Assembly. The bill authorizes the attorney general to bring an action against the USEPA if he or she finds that the mandated standards are based on a finding that is not scientifically demonstrated. *Patron – Marshall, R.G. CARRIED OVER*

HB1357 Department of Environmental Quality; carbon dioxide. Prohibits the Air Pollution Control Board and the Department of Environmental Quality from taking any action to restrict the emission of carbon dioxide. Any federal law or regulation that purports to prohibit, limit or control in any way the emission of carbon dioxide shall be without authority, void and of no force within the boundaries of the commonwealth. *Patron – Morefield. CARRIED OVER*

HB82 Civil penalties for violation of sewage usage ordinances. Allows any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of subdivision (8a) of § 62.1-44.15 to adopt an ordinance establishing a uniform schedule of civil penalties for violations of ordinances governing the introduction of pollutants and wastes into the locality's public sewer system. Such civil penalties may not be more than \$100 for the initial summons and not more than \$150 for each additional summons. *Patron – Knight. PASSED*

HB436 Donations by localities; energy efficiency. Provides that a locality may make gifts and donations to any nonprofit organization that is engaged in providing energy efficiency services or promoting energy efficiency within or without the boundaries of the locality. This bill is identical to SB 291. *Patron – Toscano. PASSED*

HB553 Regulation of signage in highway rights of way. Allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated by an employee or volunteer, the sign owner shall have the right to reclaim the sign within 10 business days of the date of such confiscation. Finally, the legislation clarifies that a sign installed (on private property) that does not require use of tools or equipment does not trigger the requirement to call Miss Utility before installing the sign. This bill is identical to SB 64. *Patron – Marshall, D. W. PASSED*

HB1071 Urban development areas. Sets certain densities in urban development areas according to the population of the locality that designated the urban development area. The bill also requires that, to the extent possible, certain federal funding and state water and sewer facility and public infrastructure funding be directed to urban development areas or other designated growth areas. The bill mandates that the Commission on Local Government report on localities' compliance with the statute requiring the designation of urban development areas. This bill is identical to SB 420. *Patron – Athey. PASSED*

HB186 Smoking in cars with minor present; civil penalty. Makes it unlawful for a person to smoke in a motor vehicle, whether in motion or at rest, in which a child under the age of 13 is present, punishable by a civil penalty of \$100. *Patron – Morrissey.* **FAILED**

HB206 Aboveground liquid fertilizer storage tanks. Requires localities in which an above-ground liquid fertilizer storage tank (ALFST) with a capacity of 100,000 gallons or more is located to adopt an ordinance that regulates the installation, operation, retrofitting, maintenance, repair, abandonment and removal of such tanks. The locality is authorized to establish a fee schedule for registration of these tanks. The ordinance would require the owner or operator of the tank to develop a discharge contingency plan that ensures a discharge from any regulated tank will be properly contained, mitigated and cleaned up. While the bill provides a framework for the ordinance, it allows the locality to enact an ordinance that is more restrictive or more extensive in scope than is required by the Code. This bill was incorporated into HB 1211. *Patron – Alexander.* **FAILED**

HB1351 Virginia Indoor Clean Air Act; smoking in public buildings prohibited; penalty. Prohibits smoking in any building owned or leased by the commonwealth or any agency thereof or any locality. The bill contains numerous technical amendments. *Patron – Hope.* **FAILED**

HB987 Regulation of stormwater. Amends current law by removing the requirement that waivers given to federal, state or local government agencies that develop, redevelop or retrofit outfalls, discharges or property so that there is a permanent reduction in post-development stormwater flow and pollutant loading be full waivers. The amount of the waiver to such agencies shall be equal to the product of the fee that would be charged to the agency multiplied by the percentage of the stormwater runoff captured by the agency's storm drainage or stormwater control facilities. *Patron – Jones.* **CARRIED OVER**

HB928 Virginia Universities Clean Energy Development and Economic Stimulus Foundation. Creates the Virginia Universities Clean Energy Development and Economic Stimulus Foundation as a body corporate and a political subdivision of the commonwealth. The foundation shall identify, obtain, disburse and administer funding for (i) research and development of alternative fuels, clean energy production and related technologies; (ii) support of economic development projects in disadvantaged rural areas; and (iii) the provision of assistance in the commercialization of alternative fuels and clean energy technologies. Funding shall be awarded only to those proposed projects that best meet the established criteria and purposes of this act. *Patron – Bell, Robert B.* **PASSED**

HB1023 Telecommuting; employees of agencies within the legislative branch of state government. Requires the head of each agency within the legislative branch of state government to adopt a telecommuting and alternative work schedule policy for eligible employees. The policy shall authorize voluntary participation in telecommuting and alternative work schedule programs for up to eight days per month, provided such participation does not diminish employee performance or service delivery. The head of each legislative agency may authorize participation for more than eight days per month. No policy adopted pursuant to this act shall authorize participation in either program during any session or special session of the

General Assembly. The Capitol Police are exempt from the requirements of this act. *Patron – Hugo. FAILED*

HB209 Outdoor signs and advertising. Provides that all penalties and costs collected for violations of advertising provisions when the locality has entered into an agreement with the Commonwealth Transportation Commissioner shall be paid to the affected locality. Excludes signs and advertising erected only from Saturday through the following Monday from those agreements with the commissioner. *Patron – Bulova. PASSED*

HB214 HOV lanes; use by vehicle with clean special fuel license plates. Extends until July 1, 2011, the sunset on use of HOV lanes by clean special fuel vehicles, regardless of the number of occupants. This bill incorporates HB 320 and HB 980. *Patron – Greason. PASSED*

HB25 Statewide Transportation Plan. Requires that the Statewide Transportation Plan include quantifiable measures and achievable goals for greenhouse gas emissions. *Patron – Herring. FAILED*

HB320 HOV lanes; use by vehicle with clean special fuel license plates. Extends until July 1, 2011, the sunset on use of HOV lanes by clean special fuel vehicles, regardless of the number of occupants. This bill was incorporated into HB 214. *Patron – Plum. PASSED*

HB1334 Littering; cigarette butts. Prohibits disposal of cigarettes or any portion thereof on public property. Any person convicted of violation shall be subject to a civil penalty of \$75. However, in lieu of appearing in court, the violator may mail or personally deliver payment of \$75 to the clerk of the court. *Patron – Morgan. PASSED*

HB1037 Clean Energy Manufacturing Incentive Grant Program. Repeals the Solar Photovoltaic Manufacturing Incentive Grant Program and creates a program to provide financial incentives to companies that manufacture or assemble equipment, systems or products used to produce renewable energy, nuclear energy or energy efficiency products. To be eligible for a grant, the manufacturer must make a capital investment greater than \$50 million and create at least 200 full-time jobs. The program would be managed by the Director of the Department of Mines, Minerals and Energy. *Patron – Byron. CARRIED OVER*

Clean Energy Manufacturing Incentive Grant Program. Repeals the Solar Photovoltaic Manufacturing Incentive Grant Program and creates a program to provide financial incentives to companies that manufacture or assemble equipment, systems or products used to produce renewable or nuclear energy, or products used for energy conservation, storage or grid efficiency purposes. To be eligible for a grant, the manufacturer must make a capital investment greater than \$50 million and create at least 200 full-time jobs that pay at least the prevailing wage. The program would be managed by the Director of the Department of Mines, Minerals and Energy. This bill incorporates SB 129. *Patron – Stosch. CARRIED OVER*

HB442 Electric utilities; renewable energy. Authorizes an electric utility customer to continue purchasing renewable energy pursuant to the terms of a power purchase agreement that was in effect on the date there is filed with the State Corporation Commission a tariff for the incumbent

electric utility that serves the exclusive service territory in which the customer is located to offer electric energy provided 100 percent from renewable energy for the duration of the power purchase agreement. *Patron – Toscano. PASSED*

HB1022 Renewable energy portfolio standard program. Provides that an investor-owned electric utility will receive triple credit toward meeting the goals of the renewable energy portfolio standard program for energy derived from offshore wind. *Patron – Hugo. PASSED*

HB1380 Renewable portfolio standards; forest products. Removes the requirement that utilities participating in a renewable portfolio standard (RPS) program collectively use no more than 1.5 million tons of forest products such as wood chips, bark and sawdust each year towards meeting RPS goals. *Patron – Pollard. FAILED*

HB327 Electric energy efficiency standard. Establishes an energy efficiency standard under which investor-owned electric utilities are required to reduce the consumption by their retail customers in the commonwealth, through implementation of energy efficiency and conservation programs, by 2026 by 19 percent less than the consumption level currently projected for such year. Between 2011 and 2026, utilities are required to meet interim benchmarks established by the State Corporation Commission. The measure authorizes investor-owned electric utilities to earn the same enhanced rate of return on costs of energy efficiency programs that is currently provided for renewable powered generation facilities to recover the costs of designing and operating energy efficiency programs. A utility's energy efficiency programs shall be reported in its integrated resource plans. *Patron – Plum. CARRIED OVER*

HB1236 Information on energy conservation. Requires investor-owned electric utilities and natural gas distribution companies to provide information to customers to support and encourage conservation actions. The bill requires the State Corporation Commission to determine the type of information and issue guidelines indicating what information is to be (i) included with customers' periodic bills, (ii) sent annually to customers in reports and (iii) made accessible to customers on the Internet. *Patron – Toscano. CARRIED OVER*

HB1342 Renewable energy portfolio standard program. Provides that an investor-owned electric utility will receive quintuple credit toward meeting the goals of the renewable energy portfolio standard program for energy from poultry litter or other animal waste. *Patron – Gilbert. CARRIED OVER*

HB803 Income tax; corporate and individual; green jobs tax credit. Allows a \$500 income tax credit for the creation of "green" jobs paying an annual salary in excess of \$50,000 for taxable years beginning on and after January 1, 2010 but before January 1, 2015. Each taxpayer is allowed a credit for up to 350 new green jobs. This bill incorporates HB 268 and HB 1132 and is identical to SB 623. *Patron – Poindexter. PASSED*

HB389 Virginia Offshore Wind Project Development Authority. Creates the Virginia Offshore Wind Development Authority to facilitate and support the development of the offshore wind industry and wind-powered electric energy facilities located off the coast of the commonwealth beyond the commonwealth's three-mile jurisdictional limit. The authority is

charged with, among other tasks, (i) identifying existing state and regulatory or administrative barriers to the development of the offshore wind industry, (ii) collecting metocean and environmental data, (iii) upgrading port facilities to accommodate the manufacturing and assembly of project components and vessels that will support such projects and (iv) applying to the U.S. Department of Energy for loan guarantees for such projects. SB 577 is identical.

Patron – Janis. PASSED

HB1222 Voluntary Solar Resource Development Fund; grant program. Requires electric utilities to provide customers with the option to make voluntary contributions to the Voluntary Solar Resource Development Fund, which is established by this measure. Moneys in the fund will be allocated by the State Corporation Commission as grants for projects that involve the acquisition, installation or operation of photovoltaic devices, solar water heating devices or solar space heating devices at a residence, structure occupied by a nonprofit organization or commercial establishment. *Patron – Ebbin. FAILED*

HB881 Restrictive covenants regarding solar energy collection devices. Invalidates any new or existing restrictive covenant adopted by a community association that prohibits or restricts the installation or use of any solar energy collection device. Community associations may establish reasonable restrictions as to the size, place and manner regarding the placement of such devices on private property and community areas. *Patron – BaCote. CARRIED OVER*