

# 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 2011 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 the attorneys and research associates of the Division of Legislative Services. 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 2011 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 2011 General Assembly through adjournment *sine die* on February 27, 2011. Many of the measures are subject to gubernatorial review and veto. Therefore, some measures may be amended and some may not become law. The summaries are organized by committee.

### Natural Resources

#### *Passed*

**HB1830 Agriculture; resource management plans.** The measure allows owners of agricultural land who implement and maintain a resource management plan to be deemed as being in full compliance with certain state and federal water quality requirements. The Soil and Water Conservation Board shall by regulation, and in consultation with the Department of Agriculture and Consumer Services and the Department of Environmental Quality, specify the criteria to be included in a resource management plan. The measure sets out minimum criteria for such regulations. *Patron - Scott, E.T.*

#### *Passed*

**HB1831 Fertilizer; regulation of application and labeling.** The measure prohibits the sale, distribution, and use of lawn maintenance fertilizer containing phosphorus, with certain exemptions, and any deicing agent containing urea, nitrogen, or phosphorus intended for application on parking lots, roadways, and sidewalks, or other paved surfaces beginning December

31, 2013. However, retailers are allowed to sell their existing inventory. The measure also requires golf courses to implement nutrient management plans by July 1, 2017. *Patron - Scott, E.T.*

### Administration of Government

#### *Passed*

**HB2282 Department of General Services; centralized fleet; alternative fuels.** Requires the Director of the Department of General Services, in conjunction with the Secretary of Administration and the Governor's senior advisor on energy, to develop a plan providing for the replacement of vehicles in the centralized fleet with vehicles that operate using natural gas, electricity, or other alternative fuels, to the greatest extent practicable, considering available infrastructure, the location and use of vehicles, capital and operating costs, and potential for fuel savings. The plan shall be submitted to the Governor for his review and approval. Once the plan is approved by the Governor, the Director is required to implement the plan for the centralized fleet. The bill provides that all state agencies and institutions shall cooperate with the Director in implementing the plan. *Patron - Marshall, D.W.*

#### *Passed*

**SB859 Mid-Atlantic Offshore Wind Energy Infrastructure Development Compact.** Repeals the Mid-Atlantic Offshore Wind Energy Infrastructure Development Compact. *Patron - Wagner*  
Failed

#### *Passed*

**HB1817 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 standard. 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 90.12004 (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*

#### *Passed*

**HB2262 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 50percent of the value of the building to build to either U.S. Green Building Council Leadership in Energy and Environmental Design green building rating standard (LEED) Silver or Green Globes two globe standards. Exemptions from the requirement may be granted by the Director of the Department of General Services for state construction projects or the governing body of a locality or school board for local projects. The bill has a delayed implementation date of July 1, 2012, for local public bodies and school boards. *Patron - Morgan*

*Passed*

**SB832 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, conform to Virginia Energy Conservation and Environmental Standards developed by the Department of General Services considering the U.S. Green Building Council (LEED) green building rating standard, the Green Building Initiative "Green Globes" building standard, and other appropriate requirements. 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*

*Passed*

**SB1283 Assignment of year-end surplus.** Changes the priority for assigning any year-end surplus by requiring that any general fund balance remaining after funds are set aside for required deposits to the Revenue Stabilization Fund would be assigned as follows: 50 percent for deposit into the Transportation Trust Fund and 50 percent for the payment of certain deferred retirement contributions described under paragraph I 5 of Item 469 of Chapter 874 of the Acts of Assembly of 2010 until such deferred retirement contributions have been paid in full. If any surplus remains after such assignments, the remainder would be assigned to the Virginia Water quality Improvement Fund and other commitments including commitments to certain public institutions of higher education. Under current law, any year-end surplus is first assigned for deposit to the Revenue Stabilization Fund, the Virginia Water quality Improvement Fund, and other commitments, including commitments to certain public institutions of higher education. If any surplus remains after such assignments, the remainder is assigned two-thirds for deposit into the Transportation Trust Fund and one-third for funding nonrecurring expenditures.

*Patron - McWaters*

*Passed*

**SB1385 Assignment of year-end surplus.** Changes the priority for assigning any year-end surplus by requiring that 10 percent of the general fund balance remaining after funds are set aside for required deposits to the Revenue Stabilization Fund, the Virginia Water quality Improvement Fund, the Transportation Trust Fund, and other commitments would be assigned to provide funding to the Department of Veterans Services. *Patron – Colgan*

### **Agriculture, Animal Care, and Food**

*Passed*

**HB1830 Agriculture; resource management plans.** Allows owners of agricultural land who implement and maintain a resource management plan to be deemed as being in full compliance with (i) any load allocation contained in a total maximum daily load (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment impairments; (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment. The presumption does not prevent or preclude enforcement of provisions pursuant to (a) a resource management plan otherwise required by law, (b) a Virginia Pollutant Discharge Elimination System permit, (c) a Virginia Pollution Abatement permit, or (d) requirements of the Chesapeake Bay Preservation Act. The Soil and Water Conservation Board shall by regulation, and in consultation with the Department of Agriculture and Consumer Services and the Depart-

ment of Environmental Quality, specify the criteria to be included in a resource management plan. The bill sets out minimum criteria for such regulations. *Patron - Scott, E.T.*

### Conservation

*Passed*

**HB2058 Water quality reports.** Consolidates several reports on the progress in cleaning up Virginia's impaired waters into semiannual and annual reports submitted by the Secretary of Natural Resources to the legislative committees of oversight. *Patron - Poindexter*

*Passed*

**HB2368 Supplemental environmental projects.** Authorizes the Virginia Soil and Water Conservation Board, the Director of the Department of Conservation and Recreation, and courts to provide for the undertaking of supplemental environmental projects through orders. A "supplemental environmental project" is an environmentally beneficial project undertaken as partial settlement of a civil enforcement action that is not otherwise required by law. The project must have a reasonable geographic nexus to the violation or, if no such project is available, advance objectives of the law or regulation violated. Categories of qualifying projects are listed in the bill, as are factors to be considered in determining the appropriateness and value of a project. The project must be agreed to by the person who is subject to the order and is enforceable as is any other provision of the order. A board, agency, or court decision to agree to a project is not subject to appeal. A similar authority was granted to the Department of Environmental Quality in 1997. *Patron - Ware, R.L.*

*Passed*

**SB1058 Air emissions; repeal of laws and regulations related to the Clean Air Interstate Rule.** Repeals air emissions laws and regulations related to the federal Clean Air Interstate Rule upon the earlier of (i) the date when facilities in the Commonwealth become subject to the requirements of a federal implementation plan adopted by the U.S. Environmental Protection Agency in response to the remand of the Clean Air Interstate Rule or (ii) the effective date of a final rule adopted by the State Air Pollution Control Board implementing federal requirements adopted by the U.S. Environmental Protection Agency in response to the remand of the Clean Air Interstate Rule. The bill requires that, in the event the State Air Pollution Control Board develops a final rule to implement federal requirements adopted by the U.S. Environmental Protection Agency in response to the remand of the Clean Air Interstate Rule, the State Air Pollution Control Board shall evaluate the inclusion of a renewable and energy-efficiency source set-aside as part of a new source set-aside when developing such rule. *Patron - McDougle*

*Passed*

**SB1099 Nonpoint nutrient offsets.** Establishes priorities to be used by permit issuing authorities when considering off-site phosphorous control options for stormwater permits. The bill also provides conditions under which use of an off-site option can be granted. In addition, permit-issuing authorities are to allow the full or partial substitution of nonpoint nutrient offsets for existing on-site nutrient control when the offsets will compensate for 10 or fewer pounds of the annual phosphorous requirement associated with the land-disturbing activity or the existing on-site controls are not functioning as anticipated and the use of the offset will make up the deficiency. The bill authorizes the acquisition of nonpoint nutrient offsets in compliance actions to compensate for nutrient control deficiencies when nutrient control deficiencies occur during the

period of noncompliance and for permanent deficiencies. The prioritization established for existing nutrient reductions at the time of the land-disturbing activity and the conditions under which off-site options may be utilized are limited to those instances when there are nonpoint nutrient offsets available within the locality. *Patron – Hanger*

*Passed*

**SB1100 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*

*Passed*

**SB1104 Open-space land.** Expands the definition of open-space land in the Open-Space Land Act to include land which is provided or preserved for agricultural and forestal production. This bill is identical to HB 1621. *Patron - Hanger*

*Passed*

**SB1119 Department of Environmental Quality; permit compliance; civil penalty procedures.** Increases the limit of a civil penalty issued by a special order of the Director of the Department of Environmental Quality from \$10,000 to \$10,000 for an initial violation, \$15,000 for a second violation of the same provision, or \$30,000 for a third or subsequent violation of the same provision. The Department may issue a civil penalty of not more than \$10,000 after providing reasonable notice of the civil penalty in writing and allowing for an informal fact finding proceeding upon request. Additionally, the Department of Environmental Quality is required to develop guidance to improve communication and coordination between the Department of Environmental Quality and local governments regarding landfills, other than captive industrial landfills, including the issuance of permits. *Patron - McEachin*

*Failed*

**HB1397 Residential energy efficiency standards.** Exempts any residential building or manufactured home in Virginia from being subject to federal legislation relating to residential energy efficiency standards if such buildings comply with the Statewide Uniform Building Code. Except to the extent required by the Statewide Building Code, the owner of such building or home cannot be required by the federal government to (i) have an energy efficiency analysis conducted on his residence, (ii) have his residence meet federal energy efficiency standards, (iii) participate in a building performance labeling program, (iv) make modifications to the residence in accordance with federal legislation, and (v) post a label showing the energy efficiency of his home prior to its sale. The bill also prohibits a state agency from assisting any federal agency in the implementation of global warming or climate change legislation. *Patron - Marshall, R.G.*

**Failed**

**HB1398 Air pollution emissions.** Defers to the U.S. Environmental Protection Agency (EPA) the enforcement of any carbon dioxide standards or cap and trade provisions that are included in the federal Clean Air Act. The Governor through an executive order or the General Assembly is prohibited from enforcing any climate change international agreement until such agreement is part of an international treaty that has been approved by the U.S. Senate. 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 state. The Governor is to report his findings to the General Assembly. The bill authorizes the Attorney General to bring an action against the EPA if he finds that the mandated standards are based on a finding that is not scientifically demonstrated. *Patron - Marshall, R.G.*

**Failed**

**HB1474 Erosion and sediment control specifications.** Allows public service authorities to annually file general erosion and sediment control specifications with the Virginia Soil and Water Conservation Board for the construction of water and sewer lines. *Patron - Ware, O.*

**Failed**

**HB1498 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 - Ware, O.*

**Failed**

**HB1751 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 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, 2012, 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. This bill was incorporated into HB 1831. *Patron - Plum*

**Failed**

**HB2344 Disposal of cigarette butts.** Imposes a civil penalty of \$100 for each cigarette butt that is improperly disposed of. The proceeds from the civil penalties will be deposited in the Litter Control and Recycling Fund.

*Patron - Morrissey*

**Failed**

**HB2348 Fertilizer and deicing agents; regulation of application; penalty.** Requires certain localities to regulate the sale and application of fertilizers and deicing agents. In those localities, effective January 1, 2014, fertilizer shall not (i) contain phosphorus, (ii) be applied during winter months, or (iii) be applied on impervious surfaces. The restrictions do not apply to newly

established turf or lawn areas during their first growing season, turf or lawn areas where recent soil tests confirm the need for phosphorus, or gardens or to the application of compost. The sale of any deicing agent containing urea or other forms of nitrogen or phosphorus is also prohibited. A locality may impose a civil penalty not to exceed \$250 per violation per day, not to exceed a total of \$2,000 per year. This bill was incorporated into HB 1831. *Patron – Morrissey*

*Failed*

**HB2470 Department of Environmental Quality; carbon dioxide.** Prohibits the State 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*

*Failed*

**SB1303 Air pollution; outdoor wood-burning heaters.** Requires the State Air Pollution Control Board to develop a model ordinance for localities that could be used, in the discretion of the locality, to regulate air pollution emissions resulting from the use of outdoor hydronic heaters such as residential wood-fired boilers.

*Patron – Ruff*

### Health

*Passed*

**HB1626 Onsite sewage systems; voluntary upgrades.** Allows the owner of an onsite or alternative discharging sewage system that is not failing to obtain a construction permit to improve the system, in accordance with regulations of the Board of Health, provided such upgrade is for the purposes of reducing threats to the public health or to ground and surface waters, including the reduction of nitrogen discharges. The bill contains an emergency clause. *Patron – Knight*

*Failed*

**HB2185 Submission of onsite soil evaluations for permits or letters for sewage systems.** Provides that the Department of Health shall require submission of onsite soil evaluations with every application for a permit or letter for any onsite sewage or alternative discharging sewage system, but authorizes the Department to waive such requirement for applicants whose incomes are below the federal poverty guidelines. *Patron - Lewis*

### Highways, Bridges and Ferries

*Passed*

**HB1432 HOV lanes; use by vehicle with clean special fuel license plates.** Extends until July 1, 2012, the sunset on use of HOV lanes by clean special fuel vehicles, regardless of the number of occupants. This bill incorporates HB 1754. *Patron – Greason*

*Passed*

**HB2025 Noise abatement practices and technologies.** Provides that first consideration should be given to the use of noise reducing design and low noise pavement materials for highway projects that require mitigation of traffic noise. The bill also clarifies use of vegetative screening when visual screening is required. *Patron - May*

*Failed*

**SB1254 Uniform Statewide Building Code; building permit fees; incentives for energy-efficient buildings.** Authorizes a locality to reduce permit fees levied for construction, rehabilitation, renovation, or improvement of a building by up to 10 percent of the amount otherwise charged if the building is an energy-efficient building.

*Patron - Vogel*

### **Mines and Mining**

*Passed*

**HB2123 Coal surface mining operations; national pollutant discharge elimination system permits.** Clarifies that the authority to issue pollutant discharge elimination system permits for coal surface mining operations has been delegated by the State Water Control Board to the Director of the Department of Mines, Minerals and Energy. The Director, by examining the available and relevant data, shall determine whether a discharge may cause or contribute to an instream excursion above the narrative or numeric criteria of a water quality standard. If a total maximum daily load ("TMDL") has been established for the receiving water body, it shall be considered in the reasonable potential determination. If the receiving water body does not have a TMDL established, the Director may consider biological monitoring, chemical monitoring, and whole effluent toxicity testing. The Director may require whole effluent toxicity testing if he determines that the discharge adversely affects the biological condition of the receiving water body. This bill is identical to SB 1025. *Patron - Poindexter*

### **Professions and Occupations**

*Failed*

**HB1803 Board for Contractors; regulation of home energy auditors.** Provides for the certification of home energy auditors by the Board for Contractors. The bill defines home energy audits and includes one licensed home energy auditor to be appointed to the Board for Contractors.

*Patron - Surovell*

### **Public Service Companies**

*Passed*

**HB1686 Distributed solar generation demonstration programs.** Directs the State Corporation Commission (SCC) to exercise its existing authority to consider for approval petitions filed by a utility to own and operate distributed solar generation facilities and to offer special tariffs to facilitate customer-owned distributed solar generation as alternatives to net energy metering. The SCC's approval of such programs shall follow notice to all affected parties and opportunity for hearing. After distributed solar generation installations cease to be part of a demonstration program, they shall continue to operate either as utility-owned facilities or as customer-owned installations pursuant to the terms of a tariff arrangement. *Patron - Toscano*

*Passed*

**HB1983 Net energy metering program.** Increases the maximum capacity of an electrical generation facility of a residential customer that qualifies for participation in a net energy metering

program from 10 to 20 kilowatts. The measure also provides that a customer-generator whose generating facility has a capacity that exceeds 10 kilowatts shall pay a monthly standby charge. A supplier's methodology for assessing a standby charge is required to allow the supplier to recover only the portion of its infrastructure costs that are properly associated with serving the eligible customer-generators. The State Corporation Commission is directed to conduct a proceeding to determine the reasonableness of standby charges. *Patron - Kilgore*

***Failed***

**HB1685 Agricultural net energy metering.** Creates a category of eligible customer-generators under the net energy metering program for operators of agricultural net metering facilities. An agricultural net energy metering facility may be served by multiple meters located at separate but contiguous sites owned or controlled by the same entity. The facility may aggregate the electricity generation and consumption as measured at these meters for purposes of participating in the net energy metering program. The measure also revises the criteria for qualifying as an "eligible customer-generator" to provide that a utility may elect a higher capacity for customer classes, rather than higher limits for a generating facility. *Patron – Toscano*

***Failed***

**HB1736 Electric utility rates; added returns.** Eliminates provisions of the Virginia Electric Utility Regulation Act that authorize investor-owned electric utilities to earn added basis points and other performance incentives that would increase the utility's fair combined rate of return on common equity above the rate determined by the Commission in biennial rate review proceedings. Currently, such utilities are authorized to earn performance incentives and enhanced rates of return on common equity if they satisfy performance standards, make certain investments in generation facilities, and successfully participate in a renewable energy program. *Patron – Pollard*

***Failed***

**HB2117 Electric utility regulation.** Reinstates much of the system under which investor-owned electric utilities were regulated prior to 1999. The measure repeals the Virginia Electric Utility Regulation Act and reenacts provisions relating to State Corporation Commission (SCC) ratemaking, including provisions addressing the recovery of fuel and purchased power costs, that existed prior to the 2007 legislation that re-regulated most of Virginia's investor-owned electric utilities. Existing provisions of the Virginia Electric Utility Regulation Act pertaining to ratemaking for electric cooperatives, to net energy metering, to consumer education programs, and to interconnections by farms are relocated to other chapters in Title 56. Rate adjustment clauses approved by the SCC will remain in effect as set forth in an enactment clause. *Patron – Armstrong*

***Failed***

**HB2118 Electric utility regulation.** Rebundles charges for the transmission, distribution, and generation services into the base rates of investor-owned electric utilities and revises the system enacted in 2007 by which rates of investor-owned electric utilities are to be set. The measure restores the State Corporation Commission's authority to set the utility's authorized rate of return on equity at a level that reflects the utility's risk, allows the utility to attract capital, and will be fair to ratepayers. Existing provisions of the Virginia Electric Utility Regulation Act that establish floors on a utility's rate of return based on returns reported by peer group utilities in other Southeastern states are repealed. Other provisions (i) eliminate the ability of a utility to earn a margin on operating expenses for energy efficiency programs; (ii) limit the incentive for participation in the renewable energy portfolio program to an additional 50 basis points above the

otherwise-available rate of return on new renewable energy generation facilities, in lieu of the existing provision that grants a participating utility a 50 basis point increase in its rate of return on all of its equity; (iii) authorize the Commission to increase the allowed return on equity for certain investments by up to 200 basis points for a period between 5 and 25 years based on the risk of the project, in lieu of the existing provision that establishes incentives with specific ranges and durations based on the type of project; (iv) require the Commission to consider all rate adjustment clause petitions in single annual proceedings in order to limit the number of rate increases; (v) provide that costs recoverable through rate adjustment clauses may be deferred and paid from earnings from other sources, in order to ensure that rates are not increased to recover such costs when the utility is overearning through its base rates; (vi) permit the Commission to extend the period for its review in cases by up to nine months, provided that the utility may place its proposed rate increase in effect subject to refund at the end of the original period; (vii) direct that a utility that has earned more than a fair rate of return in a biennium, after crediting the overage to deferred amounts under rate adjustment clauses, shall credit the overage to customers; (viii) eliminate a provision that limits the Commission's authority to lower a utility's rates to cases where the utility has earned more than 50 basis points above a fair rate of return for two consecutive biennia; and (ix) delete provisions requiring stand-alone determinations of income tax costs in ratemaking proceedings. *Patron – Armstrong*

***Failed***

**HB2353 Renewable energy portfolio standard.** Requires each investor-owned electric utility and distribution cooperative to participate in a renewable energy portfolio standard program commencing with calendar year 2013. Under the program, each utility is required to generate renewable energy or to purchase renewable energy certificates, or both, in amounts that start in 2013 at three percent of the total electric energy sold in the base year of 2007 and that increase to 20 percent of such amount in 2020 and thereafter. A portion of the renewable energy used to meet the percentage goals is required to be from distributed generation. Renewable energy generated in-state, or from a community-based project, is eligible for additional credit toward meeting the RPS Goals. Failure to meet the required percentages will result in the assessment of alternative compliance payments, which payments are to be paid into the newly created Virginia Sustainable Energy Fund. The measure provides that an investor-owned electric utility that was authorized to receive a performance incentive as a consequence of its participation in the renewable portfolio standard program as it existed prior to the effective date of this act shall continue to receive the incentive until the utility's next biennial rate review proceeding. *Patron – Morrissey*

***Failed***

**HB2446 Renewable energy portfolio standard program.** Provides that an investor-owned electric utility will receive (i) double credit toward meeting the goals of the renewable energy portfolio standard program for energy from biomass or waste-to-energy; (ii) triple credit toward such goals for energy from sunlight; and (iii) quadruple credit toward such goals for energy from sunlight if the facility is located in Virginia and the majority of the products used to generate the energy are manufactured or assembled in the United States. *Patron – Cosgrove*

***Failed***

**HB2447 Renewable energy incentives.** Creates incentives for the development of renewable energy facilities in the Commonwealth. The incentives include (i) clarifying the definition of renewable energy to include wood waste materials; (ii) establishing a preference in energy procurement for state facilities for the use of renewable energy; (iii) directing the establishment of

goals for the increased use by state agencies of renewable energy that will seek to have 20 percent of the energy consumed at state facilities to be renewable energy by 2025; (iv) allowing the Department of General Services to contract for renewable energy on a negotiated basis without using a competitive procurement process; (v) establishing a program to be administered by the Virginia Resources Authority under which 70 percent of the amount of loans for the capital cost of a qualifying facility may be guaranteed; and (vi) expanding the existing permit-by-rule program for small renewable energy facilities to include all renewable energy facilities, regardless of size.  
*Patron – Cosgrove*

***Failed***

**SB794 Electric utilities; integrated resource plans.** Provides that an electric utility's integrated resource plan should take into consideration environmental impacts, externalities, and price stability. Externalities are defined as including the costs, benefits, and other effects on societal welfare, health, and the environment that result from the production of energy, delivery of energy, or reduction in the use of energy through efficiency improvements, and that are external to a transaction between the supplier of energy or efficiency improvements and the wholesale or retail customer of the energy. *Patron – McEachin*

***Failed***

**HB1542 Income tax; renewable energy property and energy audit tax credits.** Grants an income tax credit for taxable years beginning on or after January 1, 2012, to individuals for renewable energy property and residential energy audits as follows: Solar panels tax credit - \$1.25/watt for first 2,000 watts; \$0.75/watt for 2,001-8,000 watts; \$0.25/watt for 8,001-20,000 watts; not to exceed \$10,500. Solar hot water tax credit - up to \$2,000. Geothermal heat pumps - 10 percent of installed cost up to \$3,000 tax credit. Residential energy audits -50 percent of cost up to \$250 tax credit; one per five-year period. The bill also grants an income tax credit for taxable years beginning on or after January 1, 2012, to commercial business taxpayers for renewable energy property and energy audits as follows: Solar panels tax credit - \$1.25/watt for first 2,000 watts; \$0.75/watt for 2,001-8,000 watts; \$0.25/watt for 8,001-20,000 watts; not to exceed \$2.5 million. Solar hot water tax credit - 25 percent of installed cost up to \$10,000. Geothermal heat pumps tax credit - 10 percent of installed cost up to \$10,000. Commercial building energy audit - 50 percent of cost up to \$500 tax credit; one per five-year period.

*Patron - Kory*

***Failed***

**HB1547 Income tax; nonprofit charitable donations for Energy Star qualified products tax credit.** Grants an income tax credit for taxable years beginning on or after January 1, 2012, to individual taxpayers and business taxpayers that make a cash donation to charitable nonprofit organizations that use the donation to construct, purchase, or lease Energy Star qualified products for their headquarters on or after January 1, 2012. The amount of the credit equals 50 percent of such equipment expenditures but not more than \$25,000 total. *Patron – Kory*

***Failed***

**HB1802 Personal property tax; classification.** Creates a separate class of property, for personal property tax rate purposes, for motor vehicles with an Environmental Protection Agency combined city and highway fuel-efficiency rating of 40 or more miles per gallon. The bill also makes a technical amendment. *Patron - Surovell*

## Trade and Commerce

### *Passed*

**HB2316 Clean Energy Manufacturing Incentive Grant Program created.** Repeals the Solar Photovoltaic Manufacturing Incentive Grant Program effective July 1, 2013, and the Biofuels Production Incentive Grant Program effective July 1, 2017, to create a program that provides 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. A wind energy supplier must make a capital investment of greater than \$10 million and create at least 30 full-time jobs that pay at least the prevailing wage to be eligible for a grant. Solar photovoltaic manufacturing grants based on sales in 2011 are capped at \$1 million. SB 1360 is identical. *Patron - Byron*

### *Passed*

**SB1360 Clean Energy Manufacturing Incentive Grant Program created.** Repeals the Solar Photovoltaic Manufacturing Incentive Grant Program effective July 1, 2013, and the Biofuels Production Incentive Grant Program effective July 1, 2017, to create a program that provides 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. A wind energy supplier must make a capital investment of greater than \$10 million and create at least 30 full-time jobs that pay at least the prevailing wage to be eligible for a grant. Solar photovoltaic manufacturing grants based on sales in 2011 are capped at \$1 million. This bill incorporates SB 1229 and is identical to HB 2316. *Patron - Stosch*

### *Failed*

**SB1229 Clean Energy Manufacturing Incentive Grant Program created.** Repeals both the Solar Photovoltaic Manufacturing Incentive Grant Program and the Biofuels Production Incentive Grant Program to create a program that provides 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. A wind energy supplier must make a capital investment of greater than \$10 million and create at least 30 full-time jobs that pay at least the prevailing wage to be eligible for a grant. This bill was incorporated into SB 1360. *Patron - Deeds*

## Virginia Energy Plan

### *Passed*

**HB2191 Voluntary Solar Resource Development Fund.** Requires the Department of Mines, Minerals and Energy to provide 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 loaned for projects that involve the acquisition, installation, or operation of photovoltaic devices,

solar water heating devices, or certain solar space heating devices at a residence, structure occupied by a nonprofit organization, or commercial establishment. The measure expires July 1, 2016. SB 975 is identical. *Patron – Ebbin*

***Passed***

**SB862 Commonwealth Energy Policy; local renewable energy facility siting ordinances.** Requires that a local ordinance addressing the siting of renewable energy facilities be consistent with provisions of the Commonwealth Energy Policy, provide reasonable criteria to be addressed in the siting of any such facility that generates electricity from wind and solar resources, and include provisions establishing reasonable requirements on the siting of any such facility. Measures required by the ordinance are required to be consistent with the locality's existing ordinances. *Patron - Wagner*

***Failed***

**HB1598 Restrictive covenants regarding solar energy collection devices.** Invalidates any new or existing restrictive covenant adopted by a community association that prohibits or restricts an owner from installing or using any solar energy collection device on the owner's property. 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*

**Waters of the State, Ports and Harbors**

***Failed***

**HB1624 Department of Environmental Quality; consent agreements.** Authorizes the Executive Director of the Department of Environmental Quality, when the State Water Control Board is not in session, to enter into consent orders with persons who have violated the water control laws or provisions of their ground water permit or surface water management area permits. *Patron – Knight*

***Failed***

**HB2402 State waters; regulation of interbasin transfers.** Establishes a procedure for the interbasin transfer of waters. Persons initiating an interbasin transfer, or expanding an existing interbasin transfer, in excess of two million gallons per day must seek a certificate of transfer from the State Water Control Board. Applicants must publish a notice of intent to interested parties and hold public hearings in affected areas. The applicant is required to provide the Department of Environmental Quality with an environmental impact statement showing comprehensive analysis of the impacts, including cumulative impacts, that would occur in the source and receiving basins; an evaluation of alternatives to the proposed inter-basin transfer; and a description of measures to mitigate any adverse impacts that may arise. *Patron – Wright*

**Other Resolutions**

***Passed***

**HR72 Memorializing Congress regarding greenhouse gas emissions regulation.** Urges the United States Congress to address the proposed regulations of the Environmental Protection Agency in regards to greenhouse gas emissions. *Patron – Morefield*

*Passed*

**HR73 Memorializing the Congress of the United States to address issues related to the current federal ethanol policy and to request the U.S. Environmental Protection Agency to withdraw its waivers until all pertinent testing on the impacts of e-15 is completed and satisfactory.** Expresses the sense of the Virginia House of Delegates that Congress address the issues of liability, auto warranties, food inflation, and other economically deleterious effects of the current federal ethanol policy and request the U.S. Environmental Protection Agency to withdraw its waivers until all pertinent testing on the impacts of e-15 is completed and satisfactory. *Patron - Marshall, R.G.*

*Failed*

**SR29 Memorializing Congress regarding greenhouse gas emissions regulation.** Urges the United States Congress to address the proposed regulations of the Environmental Protection Agency in regards to greenhouse gas emissions. *Patron - Puckett*