



Transcending Boundaries

2017 Legislative Digest

A Guide to State Energy and Environment
Legislation in the South

September 2017

Covering measures in 16 states and two U.S. territories

Introduction by
Rep. Randy Davis of Alabama
Vice Chair

Acknowledgments

The Southern States Energy Board's 2017 Legislative Digest is compiled each year in collaboration with member states and territories.

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Introduction

Representative Randy Davis

It is my privilege to present the 2017 Legislative Digest, a compendium of energy and environmental legislation enacted by the Board's 18 member states and territories during the 2017 legislative sessions. For more than four decades, the Southern States Energy Board has published this Digest, and each year the Board endeavors to ensure that the information representing the legislative trends in the South is accurate and comprehensive. No other document provides such a complete review of energy and environmental legislation in our member states. The legislation presented in this document is current through September 1, 2017.



Precise bill summaries are categorized for easy comparison. Energy measures are divided among the following categories: Alternative Energy Development; Coal and Minerals; Emergency Management and Homeland Security; Energy Efficiency; Natural Gas and Petroleum; Reorganization and Coordination; and Utilities.

Environmental measures are divided into the following categories: Air Quality and Pollution Control; Coastal Zone Management; Emergency Management and Homeland Security; Environmental Health Services; Hazardous Waste and Substance Management; Inland Water Resource Management and Conservation; Land Management and Conservation; Radioactive Waste; Reorganization and Coordination; Solid Waste; and Water Quality and Pollution Control. The largest of the categories were Utilities, Natural Gas and Petroleum, and Alternative Energy Development. These categories combined for 94 pieces of legislation.

When examining legislation passed state-by-state it is not unusual to observe certain trends or themes. This year was no different. Several states passed legislation pertaining to the construction and regulation of oil and gas pipelines. Arkansas established provisions for rate adjustments to promote the expansion of natural gas infrastructure.

Three states, Alabama, Kentucky, and Texas, all approved resolutions urging the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code.

Many states addressed tax credits for both renewables and natural gas expansion. Tennessee and North Carolina imposed certain temporary moratoriums on new construction of wind energy facilities, while Maryland established a permanent prohibition of hydraulic fracturing of a well for the exploration of oil or natural gas.

Louisiana, North Carolina, South Carolina, Texas, Virginia, and West Virginia all passed a bevy of legislation meant to address the chronic problem of flooding and stormwater management that has plagued the Southeast in recent years. Alabama, Arkansas, and Georgia passed measures establishing procedures relating to the emergent technology of autonomous vehicles.

Oklahoma passed legislation increasing the registration fee for pesticide applicator license renewals and

establishing fines for a late application, and, similarly, Missouri passed a bill establishing penalties for the misuse of herbicides.

Many states enacted legislation relating to homeland security, with two states, Georgia and Mississippi, passing legislation dealing directly with the cybersecurity of critical infrastructure. Florida passed legislation to define and establish penalties for “agroterrorism,” or the act of willfully spreading any type of contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals. While many states addressed similar issues, each state also had specific areas of law that warrant special attention, and these can be found before the start of each state’s section.

About Randy Davis

Representative Randy Davis was first elected to the Alabama House of Representatives in November 2002 and is serving his fourth term.

He received his B.M.Ed and M.M.Ed from the University of Southern Mississippi and Ed/Sp from Alabama State University. He served as a teacher/administrator and executive to the superintendent of the Mobile County Public Schools and Public Relations Coordinator for the Baldwin County Public Schools before retiring in 2004.

Representative Davis has served on the Mobile Arts Council, Boys and Girls Club Board, Bounds YMCA Board, U.S. Sports Academy Board and the Board for the Daphne-Spanish Fort Rotary.

He is currently the Director of Music Ministries at the Daphne United Methodist Church. Additionally, Representative Davis is the resident conductor for the Baldwin County Pops Band and recently started the North Mobile Community Chamber Symphony.

Representative Davis is married to the former Martha Lindsey of Chickasaw, and they have one son, Judson.

Categories of Energy Legislation

Alternative Energy Development

The category of Alternative Energy Development includes legislation related to the incentives, barriers, and costs associated with the development and use of alternative energy sources, uses, and technologies.

Coal and Minerals

The category of Coal and Minerals addresses all aspects of coal and mineral extraction, production, and transportation. Legislation in this area encompasses mineral rights, mine safety and inspection, royalty distribution, and crushing operations. (See Land Management and Conservation under Environmental Legislation for new laws relating to land restoration.)

Emergency Management and Homeland Security

The category of Emergency Management and Homeland Security addresses the role of state governments in response to natural or man-made emergencies involving critical energy infrastructure and supply. These emergencies may require intrastate, interstate, and/or national response and includes intentional acts of terrorism.

Energy Efficiency

The category of Energy Efficiency includes legislation pertaining to the development and promotion of energy efficient technologies and programs for buildings, homes, transportation, power systems, and industry and related energy conservation issues.

Natural Gas and Petroleum

The category of Natural Gas and Petroleum addresses regulations on all aspects of natural gas and petroleum exploration, development, production, importation, transportation, storage, and marketing.

Reorganization and Coordination

The category of Reorganization and Coordination is composed of legislation affecting the responsibilities or functions of existing state governmental agencies and departments that handle energy matters. Such legislation includes the creation of or changes in department or commission responsibilities and the requirements regarding notice to or coordination of agencies.

Utilities

The category of Utilities focuses on legislation affecting water, gas, and electric services provided by utility and power companies. The types of legislation enacted in this area deal with changes in rates, production, distribution, services, operations, least cost planning, and the location of utility services.

Categories of Environmental Legislation

Air Quality and Pollution Control

The category of Air Quality and Pollution Control includes legislation regarding various pollutants that are released and emitted into the atmosphere. Specifically, measures in this category include air quality control acts, emission standards, acid rain initiatives, and ozone non-attainment.

Coastal Zone Management

The category of Coastal Zone Management involves the preservation and enhancement of both offshore and onshore environments, including coastal landforms and marine ecosystems. Measures within this category include shore erosion controls, protection of aquatic vegetation and offshore reefs, control of marine harvests, and federal-state consistency provisions.

Emergency Management and Homeland Security

The category of Emergency Management and Homeland Security addresses the role of state governments in response to natural or man-made emergencies, which compromise environmental security and health. These emergencies may require intrastate, interstate and/or national response, and include intentional acts of terrorism.

Environmental Health Services

The category of Environmental Health Services includes measures enacted to discourage and prevent activities that disrupt life-support systems for humans and other species, damage wildlife and human health, and produce nuisances such as noise.

Hazardous Waste and Substance Management

The category of Hazardous Waste and Substance Management contains legislation relating to toxic substances. The primary purpose of this legislation is to control the production, transportation, use, and disposal of toxic substances and wastes. (See Radioactive Waste for new laws relating to radioactive materials; see Solid Waste for new laws relating to non-toxic materials.)

Inland Water Resource Management and Conservation

The category of Inland Water Resource Management and Conservation consists of legislation related to the conservation, permitting, management, and protection of inland water sources and/or reservoirs (e.g., lakes, rivers, streams and tributaries, groundwater, etc.). It includes measures that provide for the capture and control of the water supply, management and protection of wetlands and watersheds, and the regulation of outdoor water activities such as fishing and boating. The category also includes measures pertaining to the responsibility, function, and jurisdiction of relative state and local government agencies.

Land Management and Conservation

The category of Land Management and Conservation incorporates legislation concerning the management and protection of public and private lands and ecosystems. Legislation in this category includes land and growth management, land reclamation and restoration activities, including brownfield mitigation, soil erosion, abatement and prevention, environmental covenants, forestry and timber harvesting, hunting regulations, and park management.

Radioactive Waste

The category of Radioactive Waste focuses on legislation related to the proper handling, storage, transportation, and disposal of high-level and low-level radioactive waste. High-level radioactive waste includes spent fuel and other high-level wastes generated from nuclear operations. Low-level radioactive waste is any material discarded from a nuclear operation that has been exposed to radiation.

Reorganization and Coordination

The category of Reorganization and Coordination is composed of legislation affecting the responsibilities and functions of existing state governmental agencies and departments that handle environmental matters. Such legislation includes the creation of or changes in department or commission responsibilities and requirements regarding notice to or coordination of agencies.

Solid Waste

The category of Solid Waste entails legislation relating to the treatment, disposal, and/or recycling of refuse, scrap, tailings, chemical effluents, litter, and agricultural or industrial wastes. While some legislation uses the term “solid waste” and “hazardous waste” interchangeably, this Digest will use “solid waste” for those wastes that are non-toxic and “hazardous waste” for toxic materials. (See Radioactive Waste for all radioactive waste materials; see Hazardous Waste and Substance Management for regulation of toxic substances.)

Water Quality and Pollution Control

The category of Water Quality and Pollution Control concerns the purity of water as a resource for public and industrial uses. Legislation within this category pertains to quality control measures that guard against the contamination of water supplied by lakes, rivers, streams and tributaries, and/or groundwater. Furthermore, this category contains legislation relating to the recycling of contaminated water and/or sewage.

Matrices and Graphs

The matrices and graphs on the following pages illustrate energy and environmental quality legislative activity observed in SSEB member states during this year’s legislative session. The matrices provide readers with a quick view of the categories of laws passed by each state.

The graphics on the following pages show the collective number of bills enacted by category during the year as percentages in the pie charts.

A list of abbreviations used in the graphics is provided below. Readers should refer to the categories section for more information on the criteria used in assigning legislation to the categories.

Abbreviations

Energy Legislation Categories

AED	Alternative Energy Development
CM	Coal and Minerals
EMHS	Emergency Management and Homeland Security
EE	Energy Efficiency
NGP	Natural Gas and Petroleum
RC	Reorganization and Coordination
U	Utilities

Environmental Legislation Categories

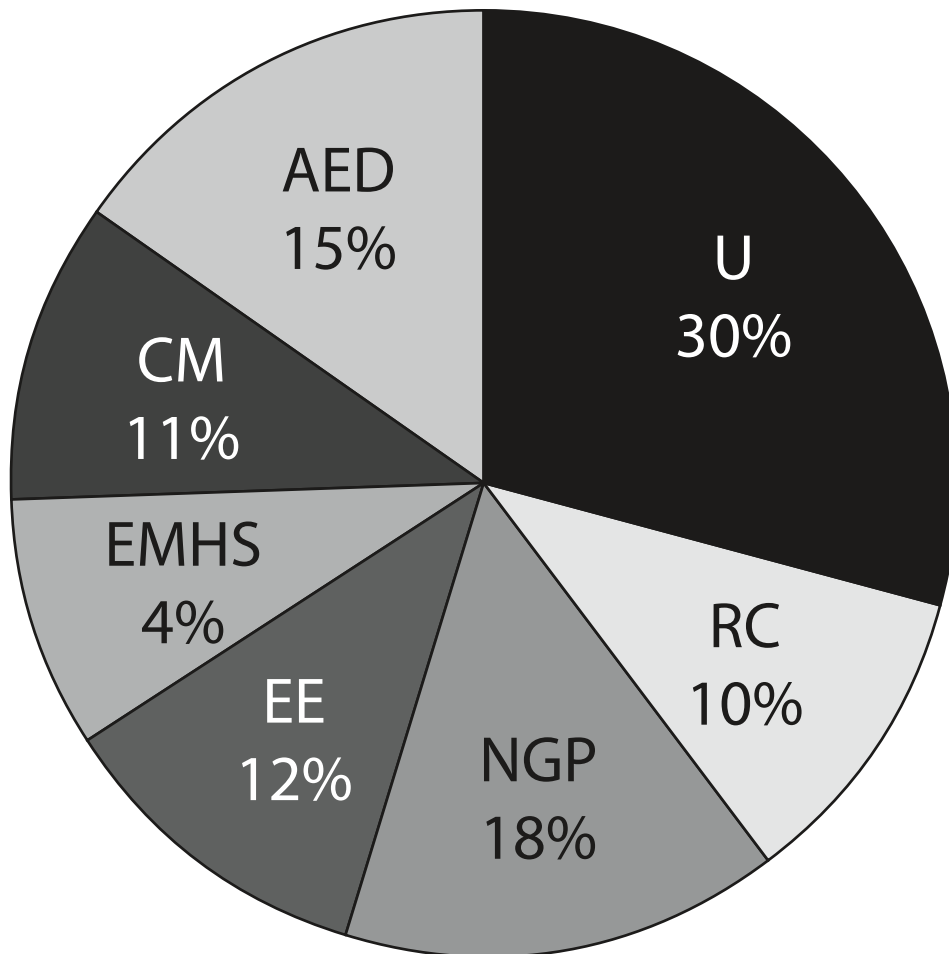
AQPC	Air Quality and Pollution Control
CZM	Coastal Zone Management
EMHS	Emergency Management and Homeland Security
EHS	Environmental Health Services
HWSM	Hazardous Waste and Substance Management
IWRMC	Inland Water Resource Management and Conservation
LMC	Land Management and Conservation
RW	Radioactive Waste
RC	Reorganization and Coordination
SW	Solid Waste
WQPC	Water Quality and Pollution Control

Legislation Prefixes

B	Bill
HB	House Bill
HCR	House Concurrent Resolution
HJR	House Joint Resolution
HM	House Memorial
HR	House Resolution
R	Resolution
SB	Senate Bill
SCR	Senate Concurrent Resolution
SJR	Senate Joint Resolution
SM	Senate Memorial
SR	Senate Resolution

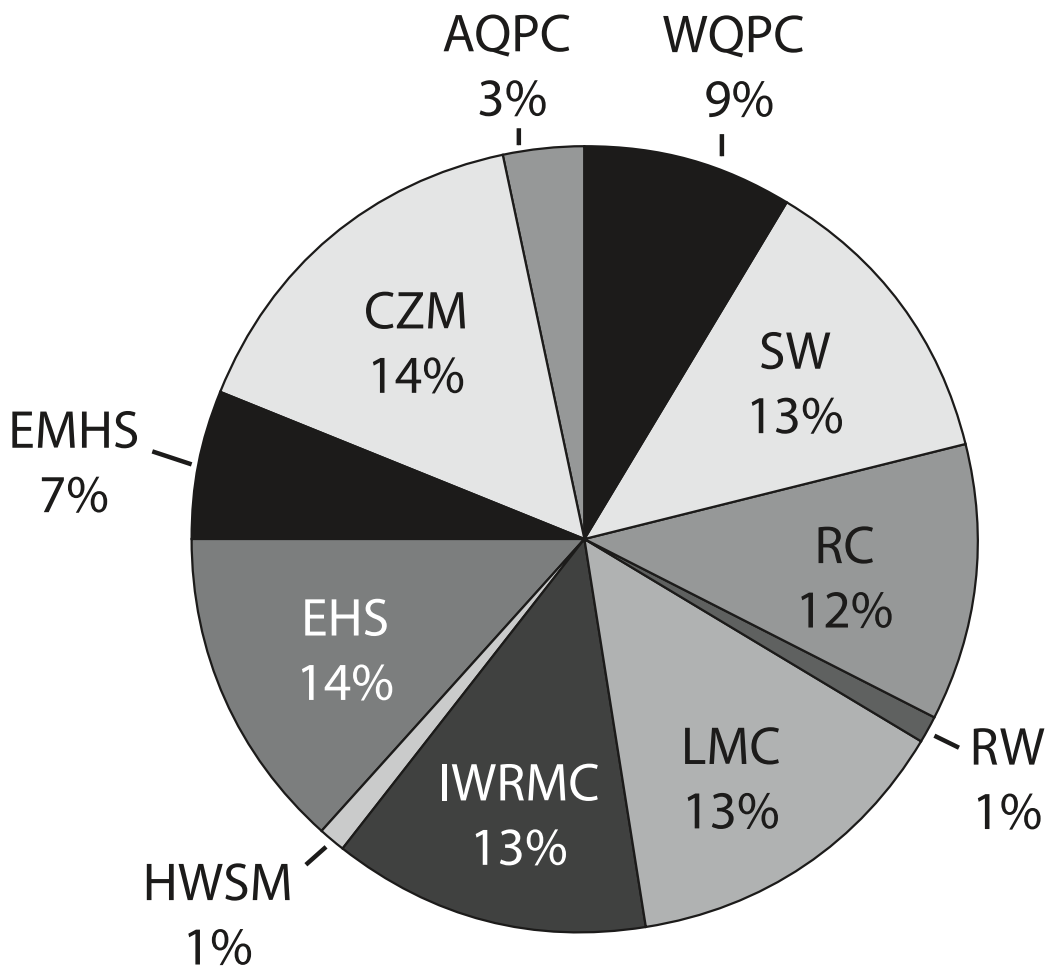
2017 Energy Legislation Matrix

Categories of Legislation	AL	AR	FL	GA	KY	LA	MD	MS	MO	NC	OK	PR	SC	TN	TX	VI	VA	WV
AED		X	X				X	X		X	X	X		X	X		X	X
CM	X	X			X						X			X	X		X	X
EMHS		X		X		X		X			X			X	X			
EE			X	X		X	X			X			X	X	X		X	
NGP	X	X		X			X	X	X					X	X		X	X
RC	X	X			X	X					X			X	X		X	X
U	X	X	X	X			X	X	X	X	X			X	X	X	X	X



2017 Environmental Legislation Matrix

Categories of Legislation	AL	AR	FL	GA	KY	LA	MD	MS	MO	NC	OK	PR	SC	TN	TX	VI	VA	WV
AQPC		X	X				X			X				X				
CZM	X		X			X	X	X		X			X		X	X	X	
EMHS		X	X	X		X	X						X	X	X			
EHS		X		X		X	X	X	X		X		X		X	X	X	X
HWSM													X		X			
IWRMC	X		X		X	X	X			X					X	X	X	X
LMC	X	X	X	X		X	X			X				X	X		X	X
RW					X													
RC	X	X	X	X	X				X	X	X				X		X	X
SW	X	X	X		X		X	X		X	X			X	X	X	X	
WQPC		X				X	X			X	X			X			X	X





AROUND THE NATION

“With this year’s digest, we’re introducing a section that covers notable energy and environmental legislation around the entire nation. This list is not exhaustive, but it does show interesting trends developing across the United States that have much in common with the same legislation being developed and passed in the southern region. Notably, North Dakota joined Alabama, Kentucky, and Texas in passing a resolution urging Congress to expand and extend the current tax credit for carbon capture, utilization, and storage. A number of states passed legislation relating to the development of natural gas infrastructure, and several states are in the process of studying their own energy sectors in order to better tailor further energy legislation.”

Colorado

HB 17-1116 – Extending Energy-related Assistance for Low-income Homes
Sponsored by Rep. Millie and Rep. Exum; Sen. Humenik

Extends the \$13 million fund for energy-related assistance to low-income homes from July 1, 2018, to July 1, 2023.

SB 17-105 – Electric Utility Disclosures to Customers
Sponsored by Sen. Garcia; Rep. Esgar and Rep. Becker

Establishes consumers' right to know their electric utility charges by requiring investor-owned electric utilities to provide their customers with a comprehensive breakdown of cost on their monthly bills.

SB 17-213 – Authorizing Automated Driving Systems
Sponsored by Sen. Moreno and Sen. Hill; Rep. Bridges and Rep. Winter

Authorizes the testing and implementation of automated driving systems within the state given the system adheres to all current state and federal transportation laws.

SB 17-278 – Prohibiting “Rolling Coal” Discharges
Sponsored by Sen. Coram and Rep. Ginal

Prohibits a person from causing a diesel-powered motor vehicle to emit clearly visible smoke, soot, or other exhaust emissions onto another person, bicycle, or motor vehicle.

Colloquially, the action of blowing exhaust onto a pedestrian or vehicle is known as “rolling coal.”

Hawaii

HB 1578 – Carbon Farming Task Force
Sponsored by Reps. Lee, Creagan, Johanson, Keohokalole, Lowen, Quinlan, and Saiki

Establishes the Carbon Farming Task Force within the Office of Planning to identify agricultural and aquacultural practices to improve soil health and promote carbon sequestration in the state's agricultural and aquacultural sectors.

SB 559 – Relating to the Paris Agreement
Sponsored by Sens. English, Chang, Cruz, Espero, Gabbard, Green, Kahele, Keith-Agaran, Kidani, Nishihara, Rhoads, Riviere, and Shimabukuro

Requires the state to expand strategies and mechanisms to reduce greenhouse gas emissions statewide in alignment with the principles and goals adopted in the Paris Agreement.

Idaho

HB 52 – Joining the Interstate Oil and Gas Compact Commission *Sponsored by the Resources and Conservation Committee*

Adopts the Interstate Compact to Conserve Oil and Gas, and allows Idaho to become a full member of the Interstate Oil and Gas Compact Commission. Full membership allows Idaho to weigh in on national oil and gas issues that affect the state's ability to administer the oil and gas conservation programs.

HB 64 – Revising Oil and Gas Permitting Process *Sponsored by the Resources and Conservation Committee*

Revises the permitting and hearing processes used for applications filed with the Oil and Gas Conservation Commission by simplifying the integration process and modifying certain options for the integrated parties.

Illinois

HB 2801 – Motor Fuel Tax Law Revisions *Sponsored by Rep. Zalewski; Sen. Harmon*

Amends the Motor Fuel Tax Law. The bill provides that the tax imposed on the privilege of operating motor vehicles that use liquefied natural gas or propane is 21.5 cents per gallon, and the tax imposed on compressed natural gas is 19 cents per gallon.

Further, the measure amends the Weights and Measures Act by establishing that liquefied natural gas used as motor fuel must be sold in diesel gallon equivalents, and compressed natural gas must be sold in gasoline gallon equivalents. Propane used as motor fuel must be sold in actual measured gallon volumetric units, subject to adjustment for the purposes of determining the diesel gallon equivalents that are subject to the tax rates under the Motor Fuel Tax Law.

Indiana

HB 1230 – Regulating Coal Combustion Residuals *Sponsored by Rep. Wolkins; Sen. Bassler and Sen. Tallian*

Authorizes the Environmental Rules Board to adopt rules consistent with the regulations of the United States Environmental Protection Agency concerning standards for the disposal of coal combustion residuals in landfills and surface impoundments. As it pertains to the law, "coal combustion residuals" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers.

SB 309 – Revising Distributed Generation Regulations *Sponsored by Sen. Hershman and Sen. Merritt*

Requires the Indiana Utility Regulatory Commission (IURC) to post a summary of the results of the IURC's most recent periodic review of the basic rates and charges of an electricity supplier on the IURC's website

and the electricity supplier subject to the review to provide a link on the electricity supplier's website to the IURC's posted summary.

The bill also amends definitions in the statute concerning alternate energy production, cogeneration, and small hydro facilities. The definition of a "private generation project" now includes certain cogeneration facilities that are located on the same site as the host operation or are located on or contiguous to the site of the host operation and are directly integrated with the host operation. It also includes organic waste biomass facilities within the definition of an "alternative energy production facility."

An electric utility or a steam utility is not required to distribute, transmit, deliver, or wheel electricity from a private generation project. The bill further requires the IURC to review the rates charged by electric utilities for backup power to eligible facilities and for purchases of power from eligible facilities, identify the extent to which the rates meet specified criteria, and report the IURC's findings to the interim study committee on energy, utilities, and telecommunications not later than November 1, 2018.

The measure also provides that before granting to an electricity supplier that is a public utility a certificate of public convenience and necessity for the construction of an electric facility with a generating capacity of more than 80 megawatts, the IURC must find that the electricity supplier allowed or will allow third parties to submit firm and binding bids for the construction of the proposed facility. A public utility that installs a wind, a solar, or an organic waste biomass project with a nameplate capacity of not more than 50,000 kilowatts and uses for the project a contractor subject to Indiana unemployment taxes and selected by the public utility through a competitive procurement process is not required to obtain a certificate of public convenience and necessity for the project from the IURC. Further, a net metering tariff of an electricity supplier (other than a municipally owned utility or a rural electric membership corporation) must remain available to the electricity supplier's customers until the aggregate amount of net metering facility nameplate capacity under the tariff equals at least 1.5 percent of the electricity supplier's most recent summer peak load or July 1, 2022, whichever occurs earlier.

Iowa

HF 445 - Revising Regulations Related to Public Utilities and Other Infrastructure *Sponsored by the Committee on Commerce*

Revises rules governing public utilities and other infrastructure, such as protecting the confidentiality of certain information relating to cybersecurity or critical infrastructure, declaring the authority of utilities to make temporary rate changes, and allowing presiding officers at public information meetings held for electric transmission line franchise petitions.

SF 331 - Electric Utility Energy Efficiency Reporting *Sponsored by the Committee on Commerce*

Provides that on or before December 31 of each odd-numbered year, gas and electric utilities that are not rate-regulated must file a report with the Iowa Utilities Board containing the annual results of their energy efficiency programs from the previous two completed calendar years. The report must include information relating to total energy savings and total peak demand savings. The measure also allows such gas and electric utilities to submit federally required forms or reports in lieu of such reports in specified circumstances.

Maine

LD 803 – Transparency in the Electricity Supply Market

Sponsored by Sen. Libby and Rep. Higgins

Requires, as a condition of licensing, that a competitive electricity provider providing or proposing to provide generation service to a residential consumer adhere to the following rules:

- Must disclose, before entering into an agreement to provide service to a residential consumer, to the residential consumer where the residential consumer can obtain information with which to compare the service provided by the competitive electricity provider and the standard-offer service;
- May not renew a contract for generation service without providing a residential consumer with notice of renewal in advance by mail;
- May not renew a contract for generation service at a fixed rate that is 20 percent or more above the contract rate in the expiring contract without the express consent of the residential consumer;
- May not renew a contract for generation service for a term that is longer than the term of the expiring contract or 12 months, whichever is shorter, without the express consent of the residential consumer; and
- May not impose an early termination fee for any contract for generation service that was renewed without express consent from the residential consumer.
- Further, the monthly utility bill for a residential consumer that elects to receive generation service from a competitive electricity provider must contain the following:
 - A website address or other resource that residential consumers can access to obtain information that provides independent information as determined by the commission that allows residential consumers to compare terms, conditions, and rates of electricity supply; and
 - A statement that directs the residential consumer to the competitive electricity provider for more information on the residential consumer's contract, including its terms, and that provides the telephone number of the competitive electricity provider.

LD 1061 – Increasing Investment and Regulatory Stability in the Electric Industry

Sponsored by Reps. Pierce, DeChant, and Tucker; Sen. Saviello and Sen. Carpenter

Amends existing law so that the Public Utilities Commission may direct investor-owned transmission and distribution utilities to enter into long-term contracts for transmission capacity, capacity resources, energy, or renewable energy credits pursuant to a regional procurement process in conjunction with other states.

The measure also requires that, by January 1 of each year, the commission must submit a report to the joint standing committee of the Legislature having jurisdiction over energy and utilities matters on the procurement of transmission capacity, capacity resources, energy, or renewable energy credits in the preceding year. The report must contain information including, but not limited to, the number of requests for proposals by the commission for long-term contracts, the number of responses to requests for proposals pursuant to which a contract has been finalized, the number of executed term sheets or contracts resulting from the requests for proposals, the commission's initial estimates of ratepayer costs or savings

associated with any approved term sheet, actual ratepayer costs or savings for the previous year associated with any procurement, the total ratepayer costs or savings at the time of the report and the megawatt-hours, and renewable energy credits or capacity produced or procured through contracts. The report must also include a plan for the succeeding year pertaining to the procurement of capacity resources, energy and renewable energy credits, including dates for requests for proposals, and types of resources to be procured.

LD 1151 – Promotional Allowances Provided by Gas Utilities

Sponsored by Reps. Pouliot, Harvell, and O’Connor; Sen. Dion

Allows for gas utilities, without prior notice or approval from the Public Utilities Commission, to offer or provide a promotional allowance. In the context of the bill, a “promotional allowance” is defined as any rebate, discount, credit, or other promotion offered or provided by a gas utility to customers or potential customers for the purpose of encouraging customers or potential customers to:

- Select or use the service or increase usage of the service of that utility;
- Select, purchase, install, or use any appliance or equipment designed to use that utility’s service; or
- Use any other particular service of that utility.

LD 1313 – Establishing Energy Policy in Maine

Sponsored by Reps. Sanborn, Berry, and Cooper; Sen. Woodsome

Amends the law regarding the transfer of funds from the Regional Greenhouse Gas Initiative Trust Fund to the Public Utilities Commission for the purpose of making disbursements to affected manufacturing customers in proportion to their retail purchase of electricity. The bill removes the requirement to transfer \$3 million per year and instead directs the commission to determine the total amount to be disbursed based on a percentage.

Further, the measure allows affected customers to opt out of receiving a disbursement. The bill requires an affected customer to use the entire amount disbursed by the commission toward the cost of an approved efficiency measure in order for the affected customer to be eligible to receive matching funds from Efficiency Maine Trust.

Minnesota

HF 113 – Natural Gas Combined Cycle Electric Generation Plant Construction and Operation

Sponsored by Rep. Newberger

Gives Xcel Energy authority to construct, own, and operate an electric generating plant fueled by natural gas on the Sherco site. This law was passed after the Maine Public Utilities Commission agreed to Xcel Energy’s request to close two of its three coal-fired plants by 2026.

The bill exempts the company from the requirement to obtain a Certificate of Need from the commission prior to constructing the plant. The commission retains its authority to approve prudently incurred costs for the plant in a rate case. The measure also allows Xcel to file with the commission an independent estimate of Xcel’s forecasted costs of the plant and to request the commission to increase or decrease its rate of return on the plant by 25 basis points if the plant’s final costs are under or over, respectively, those estimates.

Montana

HB 22 – Funding to Assist Communities with Closing Coal-Fired Generation Facilities *Sponsored by Rep. Keane*

Appropriates money to the Department of Justice to assist in securing the future of communities affected by the closure of coal-fired generating units through participation in proceedings and related dockets before out-of-state utility or regulatory commissions that address planning for the future of coal-fired generation facilities.

HB 209 – Temporarily Increasing the Coal Severance Tax Allocation *Sponsored by Rep. Usher*

Increases until June 30, 2019, the coal severance tax allocation to the Coal Natural Resource Account.

HB 216 – Wind Generation Facilities Decommissioning Plans *Sponsored by Rep. Keane*

Requires the owners of wind generation facilities to submit a decommissioning plan and bond to the Department of Environmental Quality. The bill also establishes plan and bond requirements and timelines as well as criteria for bond release.

HB 219 – Net Metering Modifications *Sponsored by Rep. Brown*

Revises net metering laws and requires the Public Service Commission to review net metering rate classifications. The bill also allows the commission to mandate separate rates for customer-generators' production and consumption, and it requires a utility to conduct a cost-benefit study of customer-generators.

HB 297 – Providing Right-of-First-Refusal For Certain Transmission Lines *Sponsored by Rep. Hertz*

Provides an incumbent electric utility with a first right to construct, own, and maintain certain electric transmission lines approved by federally registered planning authorities and located in an area included in the midwest reliability organization.

HB 344 – Funding for Coal Bed Methane Protection Program *Sponsored by Rep. Custer*

Transfers funds from the orphan share state special revenue account to the Coal Bed Methane Protection Account, and the bill appropriates money to the Department of Natural Resources and Conservation to allow conservation districts to administer the Coal Bed Methane Protection Program.

HB 585 – Loans to Owners of a Coal-fired Generating Unit *Sponsored by Rep. Knudsen*

Allows the Board of Investments to make loans to an owner of a coal-fired generating unit from the Montana Permanent Coal Tax Trust Fund for the operation and maintenance of a coal-fired generating

unit. The measure also establishes loan criteria, fees, requirements, and limitations and requires notice and certain stipulations in the event of bankruptcy.

SB 11 – Mandatory Public Service Commission Net Metering Review
Sponsored by Sen. Connell

Requires the Public Service Commission to biennially review and update interconnection standards for net metering systems.

SB 53 – Repealing the Biodiesel Production Tax Incentive
Sponsored by Sen. Jones

Repeals the tax incentive for increased biodiesel production.

SB 86 – Reinstating Enhanced Recovery Tax Incentive for Oil
Sponsored by Sen. Richmond

Reinstates the enhanced recovery tax incentive for oil.

SB 101 – Ethanol Requirement Repeal
Sponsored by Sen. Richmond

Repeals the requirements for the mandatory use of gasoline blended with ethanol.

SB 299 – Revising Hydraulic Fracturing Disclosure
Sponsored by Sen. Richmond

Mandates public disclosure of fracturing fluid information in oil and gas operations. The fracturing fluid disclosure must include:

- The chemical compound name and the chemical abstracts service registry number of the ingredients;
- Any hazardous component listed on a material safety data sheet;
- The product name;
- The type of additives used; and
- The proposed rate or concentration for each ingredient or additive, which may be expressed as percent by weight, percent by volume, parts per million, or parts per billion.

SB 339 – Establishing the Coal-fired Generating Unit Remediation Act
Sponsored by Sen. Ankney

Establishes that no later than three months after a coal-fired generating unit is retired and no earlier than five years prior to a coal-fired generating unit's planned retirement, an owner must submit a proposed remediation plan that contains:

- The name of the operator of the coal-fired generating unit and the names and addresses of all owners of the coal-fired generating unit;
- A general overview of the site where the unit is located, the unit itself, and affected property;
- The current and reasonably anticipated future uses of affected property; and
- Remediation information, including:
 - A list of reports, studies, or other evaluations related to remediation and specific remediation measures already completed or underway pursuant to any applicable legal obligation; and
 - The manner in which the remediation measures satisfy the cleanup requirements and a description of how the owner will comply.

Nevada

AB 405 – Creating the Renewable Energy Bill of Rights Sponsored by Reps. Brooks, Watkins, Frierson, Yeager, and McCurdy

Declares that each natural person who is a resident of Nevada has the right to:

- Generate, consume, and export renewable energy and reduce his or her use of electricity that is obtained from the grid;
- Use technology to store energy at his or her residence;
- If the person generates or stores renewable energy, or any combination thereof, they must be allowed to connect his or her system with the electricity meter on the customer’s side that is provided by an electric utility;
- Fair credit for any energy exported to the grid;
- Consumer protections in contracts for renewable energy;
- Have his or her generation of renewable energy given priority in planning and acquisition of energy resources by an electric utility;
- Remain within the existing broad rate class to which the resident would belong in the absence of a net metering system or a system that generates renewable energy or stores energy, or any combination thereof, without any fees or charges that are different than the fees and charges assessed to customers of the same rate class, regardless of the technologies on the customer’s side of the electricity meter, including, without limitation, energy production, energy savings, energy consumption, energy storage, or energy shifting technologies, provided that such technologies do not compromise the safety and reliability of the utility grid.

New Hampshire

HB 540 - Repealing the Voluntary Greenhouse Gas Emissions Reductions Registry
Sponsored by Rep. Turcotte

Prohibits the Department of Health and Human Services from applying for, accepting, or expending federal funds for climate change adaptation.

SB 125 - Establishing a Committee to Study the State's Electricity System Cost
Sponsored by Sen. Avard

Establishes a committee to study transmission and distribution costs in the state's energy system.

New Jersey

S 3181 - Solar Generation Facility Designation
Sponsored by Reps. Diegnan, DeAngelo, Eustace, and Gusciora; Sen. Smith

Permits solar electric power generation facility projects not having commenced commercial operation to retain designation through May 31, 2018, as connected to distribution systems.

New Mexico

HB 199 - Distributed Generation Consumer Protection
Sponsored by Rep. Alcon and Rep. Brown

Enacts the Distributed Generation Disclosure Act, which establishes minimum disclosures for the lease or sale of a distributed energy generation system.

North Dakota

HCR 3037 - Resolution Urging Congressional Action Regarding Carbon Capture
Sponsored by Reps. Mock, Carlson, Delzer, Hogan, Mitskog, Porter, and Seibel

Urges the Congress and the President of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code; to provide appropriations to the United States Department of Energy sufficient to achieve and sustain a robust carbon capture research, development, demonstration, and deployment program; to support the inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative; to support policies to increase the operational efficiency, and thereby the environmental performance, of existing electric-generating units in the United States; and to support the preservation of a fuel-diverse electric generation portfolio critical to our domestic economic, energy, and national security.

Oregon

SB 978 – Electricity Industry Study

Sponsored by Committee on Business and Transportation

Requires the Public Utility Commission to establish a public process for the purpose of investigating how industry trends, technologies, and policy drivers in the electricity sector might impact existing regulatory systems and incentives currently employed by the commission. The bill requires the commission to report its findings to the interim committees of the Legislative Assembly related to energy and business no later than September 15, 2018.

Rhode Island

HB 5483 – Amends Interconnection Standards

Sponsored by Reps. Marmust, Regunberg, Ruggiero, McKiernan, and Handy

Establishes distributed generation interconnection standards. The measure amends existing law so that an electric distribution company may only charge an interconnecting renewable energy customer for any system modifications to its electric power system specifically necessary for and directly related to its interconnection. Any system modifications benefiting other customers must be included in rates as determined by the Public Utilities Commission.

If the commission determines that a specific system modification benefiting other customers has been accelerated due to an interconnection request, it may order the interconnecting customer to fund the modification subject to repayment of the depreciated value as of the time the modification would have been necessary as determined by the commission.

HB 5575 – Statewide Municipal Solar Permits

Sponsored by Reps. Carson, Regunberg, Ruggiero, and Donovan

Provides a predictable and universal process for obtaining a single permit that encompasses both building and electric permits for solar photovoltaic systems with municipalities.

SB 77 – Charging Station Usage

Sponsored by Sen. Conley, Coyne, Calkin, Archambault, and Lombardo

Creates a prohibition on parking in electric vehicle charging stations without using the charging apparatus.

SB 108 – Carbon Pricing Program Study

Sponsored by Sens. Conley, Sosnowski, Nesselbush, Crowley, and Coyne

Directs the climate change coordinating council to study a carbon pricing program. The council must specifically study the effectiveness of the state and/or multi-state carbon pricing program to incentivize institutions and industry to reduce carbon emissions. The study must include the effectiveness of allocating revenues generated from a carbon pricing program to fund enhanced incentives to institutions and industry for targeted efficiency measures, projected emissions reductions, economic impact to businesses, any economic benefits to Rhode Island, and impacts to the state's economic competitiveness if the program were implemented.

South Dakota

HB 1071 – High-level Nuclear Waste Protocol *Sponsored by Rep. Greenfield*

Requires the approval of the Legislature before any high-level nuclear waste may be processed or deposited within state boundaries.

SB 60 – Provisions Regarding the Sale of Consumers Power District Assets *Sponsored by Sen. Maher and Rep. Hawley*

Revises certain provisions regarding the sale of consumers power district assets. The bill allows that any consumers power district may sell any power plant, electric generating plant, electric transmission, or distribution system, or any part thereof, for any sum and upon any terms that the board of directors of the district may consider fair and reasonable.

If a consumers power district comprises territory wholly within the corporate limits of a first or second class municipality, then the district must have the power to lease or alienate the franchises, plant, or physical equipment of the district to any private person, firm, association, or corporation.

SB 88 – Amending the Definition of an Electric Transmission Facility *Sponsored by Sens. Wiik, Greenfield, Kennedy, Klumb, Kolbeck, Nelson, Netherton, Novstrup, Stalzer, and Tidemann; Reps. Kettwig, Haggard, Hawley, Mills, Reed, Rounds, Steinhauer, and Willadsen*

Amends current law to establish that a transmission line that is less than 2,640 feet long, does not cross any public highway, and eminent domain is not used to obtain right of way is not considered a transmission facility.

Utah

HB 392 – Establishing the Air Quality Advisory Board *Sponsored by Rep. Hawkes and Sen. Weiler*

Creates the Air Quality Policy Advisory Board to:

- Seek the best available science to identify legislative actions to improve air quality;
- Identify and prioritize potential legislation and funding that will improve air quality; and
- Make recommendations to the Legislature on how to improve air quality in the state.

HB 405 – Incentives for Hydrogen Fuel Production *Sponsored by Rep. Sagers and Sen. Bramble*

Provides potential incentives for the production of hydrogen fuel. This legislation expands the uses for money in the Community Impact Fund to include a plant for the production of hydrogen fuel for zero emission motor vehicles or a plant for the manufacture of zero emission hydrogen-fueled trucks. The

measure also provides for an oil and gas severance tax credit for a taxpayer that produces natural gas for use in the production of hydrogen fuel for zero emission motor vehicles.

Washington

HB 1519 – Eligible Renewable Resource Qualifications

Sponsored by Rep. Blake

Allows for incremental electricity produced as a result of certain capital investment projects to qualify as an eligible renewable resource under the Energy Independence Act.

HB 1809 – Tax Credits for Alternative Fuel Commercial Vehicles

Sponsored by the House Finance Committee

Increases the amount of maximum credit against business and occupation taxes and public utility taxes for each clean alternative fuel commercial vehicle.

SB 5470 – Geothermal Exploration Permitting

Sponsored by the Senate Energy, Environment, and Telecommunications Committee

Modifies the permitting process for geothermal resources exploration to advance the development of renewable energy. The measure requires a person proposing to drill a core hole for the purpose of gathering geothermal data to obtain a single permit covering all core holes, including a single permit fee.

SB 5939 – Renewable Energy System Tax Incentives

Sponsored by Senate Ways & Means Committee

Modifies renewable energy system tax incentives and provides guidance for renewable energy system component recycling to promote a sustainable, local renewable energy industry.

Wyoming

SF 6 – Radioactive Waste Storage Facilities Provisions

Sponsored by the Joint Minerals, Business, and Economic Development Interim Committee

Updates provisions related to radioactive waste storage facilities that could potentially be sited in Wyoming.

The bill increases the initial application deposit amount from \$500,000 to \$800,000 and the feasibility agreement fee from \$50,000 to \$80,000, both of which must be adjusted annually for inflation. The measure also doubles the fine for violations of provisions on radioactive waste storage facilities from \$5,000 to \$10,000.

SF 78 – Federal Natural Resource Policy Account Modifications

Sponsored by Sen. Bebout

Revises the priorities for use of funds from the Federal Natural Resources Policy Account. Under existing law, the funds may be expended by the Governor on behalf of the state of Wyoming and its local governments, in response to federal land, water, air, mineral, and other natural resource policies that impact the state.

New funding priorities include:

- Actions that promote Wyoming’s jurisdictional, economic or property interests that may be affected by actions of federal agencies;
- Actions that facilitate federal permitting of proposed activities which may bring about further economic development of Wyoming’s natural resources; and
- Actions that increase expertise within Wyoming and allow the state to participate in federal natural resource policy matters.



ALABAMA

“Alabama adopted 21 energy and environmental bills during the 2017 legislative session. With SJR 55, the legislature seeks to stay ahead of current trends relating to autonomous driving technology. HJR 284 celebrated Alabama’s first-ever Energy Day—a day devoted to acknowledging the importance of the diverse energy sector to Alabama’s economy. Taxation appears to be a trend for Alabama, including HB 468, which adds a tax on mines in order to recover funds lost in the face of numerous, shuttered mining companies.”

Energy Legislation

Alternative Energy Development

SR 130 – Resolution Urging Congressional Action Regarding Carbon Capture

Sponsored by Sen. Ross

Urges the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code.

The resolution also asks Congress to provide appropriations to the U.S. Department of Energy sufficient to achieve and sustain a robust carbon capture research, development, demonstration, and deployment program and to support the inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative.

Finally, the resolution urges Congress to support policies to increase the operational efficiency, and thereby the environmental performance, of existing electric-generating units and to support the preservation of a fuel-diverse electric generation portfolio critical to Alabama’s domestic economic, energy, and national security.

Coal and Minerals

HB 467 – Surface Mining Reclamation Permit Fee Modification

Sponsored by Rep. South

Amends current law to allow for the payment of the surface mining reclamation permit fee over the lifetime of the mine rather than the term of the permit.

HB 468 – Additional Excise and Privilege Tax on Mines

Sponsored by Rep. South

Levies an additional excise and privilege tax of .025 cents on persons severing coal or lignite per ton in underground mines and .05 cents per ton from surface mines.

The bill states that these additional taxes are due to decreasing monies provided to the Surface Mining Commission as “numerous mining companies” are going out of business in the state of Alabama.

Natural Gas and Petroleum

HB 158 – Removing Bonding Requirement for Petroleum Products Distributors

Sponsored by Rep. Martin

Removes the \$5,000 bonding requirement for the issuance of an inspection fee permit required of petroleum products distributors.

HB 169 - Forced Pooling or Integration of Drilling; Risk Compensation Fee

Sponsored by Rep. Gaston and Rep. Buskey

Amends Section 9-17-13, Code of Alabama 1975, to allow forced pooling or integration of drilling and production units and provide for a risk compensation fee for properly notified oil and gas development owners.

The bill states that “if after diligent search and inquiry, the operator is unable to locate and give the required notice to any nonconsenting owner, the risk compensation fee must not be imposed as to the interest of that nonconsenting owner, however, the operator may request that a risk compensation fee be imposed as to the interests of all other nonconsenting owners in the unit who received the required notice.”

HB 333 - Standardized Motor Fuel Tax Collection

Sponsored by Rep. Johnson

Amends the Code of Alabama 1975 to remove references to natural gas under its previously established liquefied petroleum gas and natural gas fuel tax. It provides a new, standardized motor fuel tax collection and enforcement system in order to collect an excise tax on compressed natural gas and liquefied natural gas in the amount of eight cents per gasoline gallon equivalent or diesel gallon equivalent effective October 1, 2018. The rate will increase to 13 cents by October 1, 2023.

The bill also sets a \$100 annual application fee for all vehicles with a natural gas system installed.

HB 362 - Washington County Commission Excise Tax on Gasoline

Sponsored by Rep. Beech

Authorizes the Washington County Commission to levy an excise tax on the selling, distribution, storage, and/or withdrawal of gasoline and diesel fuel within the county's boundaries.

HB 534 - Funding the Shoals Economic Development Authority

Sponsored by Rep. Greer

Provides that excise taxes on gasoline and motor fuel used to fund the Shoals Economic Development Authority will be transferred to the agriculture authority in Lauderdale County after the securities for the Development Authority have been paid in full.

SB 79 - Baldwin County Commission Excise Tax on Gasoline

Sponsored by Sen. Pittman

Authorizes the Baldwin County Commission to levy an excise tax not to exceed three cents on the selling, distributing, storage, or withdrawal from storage of gasoline and other motor fuels and substitutes effective October 1, 2018.

Reorganization and Coordination

SJR 55 – Joint Legislative Committee to Study Self-Driving Vehicles

Sponsored by Sen. Whatley

Establishes the Joint Legislative Committee to Study Self-Driving Vehicles. The goals of the committee are to “study all aspects of self-driving vehicles, including specifically, the issues of public safety and state and local economic impact regarding such vehicles.” The study committee will assess the extent to which existing state legislation may impact the ability for testing automated vehicles in the state. The committee must report its findings no later than the 30th legislative day of the 2018 Regular Session.

HJR 284: Alabama’s First Energy Day

Sponsored by Rep. Davis

Establishes April 19, 2017 as Energy Day to recognize the importance of the diverse energy sector to Alabama’s economy. The Energy Institute of Alabama hosted the event in Montgomery, Alabama. A panel discussion, moderated by Kenneth Nemeth, Executive Director and Secretary to the Board of the Southern States Energy Board, covered a variety of topics ranging from expected federal regulation changes under the Trump Administration to the importance of educating the workforce for careers in the changing energy industry. Panelists included representatives from Tennessee Valley Authority, PowerSouth, Alabama Power, Coalbed Methane Association, and ExxonMobil.

HJR 318 – Study Commissions on Surface and Abandoned Mines

Sponsored by Reps. South, Weaver, Rowe, Wingo, Clouse, and Lee

Establishes a study commission on the operation and funding of the Surface Mining Commission and the Department of Labor’s Abandoned Mine Program.

The resolution’s intent is to assist the legislature in making “equitable, meaningful, and effective policy changes for the enhancement of the industry and the economy” of the state of Alabama. The commission has all of the following duties:

- Perform a complete and comprehensive review and assessment of state laws and regulations regarding the operation and funding of the Surface Mining Commission and the Department of Labor, Abandoned Mine Program, including any statistical data available;
- Identify issues in the law or administrative rules that open gaps or create problems regarding the operation and funding process;
- Identify problem areas, programs, and cost efficiencies through systematic data collection and analysis;
- Identify innovative programs and strategies used in other states that have proven to be effective or have shown promise to improve the operation and funding process in the industry; and
- Submit recommendations for legislative actions to the Speaker of the House of Representatives and the President Pro Tempore of the Senate during the first week of the 2018 Regular Session at which time the commission will dissolve.

Utilities

HB 179 – Water District Taxation Exemption

Sponsored by Reps. Whorton, Fincher, Williams, Hanes, Whorton, Farley, Fridy, Williams, Standridge, Wadsworth, Baker, Shiver, Lovvorn, and Henry

Amends Section 11-89-16, Code of Alabama 1975 to specify that a water district is fully exempt from taxation in Alabama.

Environmental Legislation

Coastal Zone Management

HB 288 – Regulations for Marine Vessel Identification

Sponsored by Rep. Wilcox

Removes exceptions for marine vessel identification. The bill establishes regulations for displaying an identification sticker and painting or otherwise displaying a vessel identification number.

Inland Water Resource Management and Conservation

HB 102 – Appointment of Directors to County Commission Waiver

Sponsored by Rep. Lee

Provides that a water, sewer, or fire (or a combination) authority incorporated by a county commission within a newly established territory may waive the appointment of additional directors by resolution of the county commission. Previously, county commissions were required to appoint at least one director over a new territory.

SB 257 – Tax Credit for Irrigation Equipment and Conversion Costs

Sponsored by Sen. Orr, Dial, and Allen

Establishes a tax credit of 20 percent on qualified irrigation equipment and any conversion costs related to the conversion or irrigation equipment from fuel to electricity or qualified reservoirs. The bill will sunset on December 31, 2022.

Land Management and Conservation

HB 157 – Supplemental Appropriation for Alabama Forestry Commission

Sponsored by Rep. South

Grants a \$550,000 supplemental appropriation from the Emergency Forest Fire Fund to the Alabama Forestry Commission in order to continue effectively combating wildfires in Alabama.

HB 313 – Relating to Taxation of Lumber and Lumber By-products

Sponsored by Rep. Beech

Simplifies existing language and adjusts the rates on taxation of lumber and lumber by-products. The bill also establishes the intent of the Alabama Legislature to encourage the use of forest-based renewable energy by removing the tax obligations of “fuel chips” produced on site.

This measure also redefines forest products to include pulpwood, pilings, in-woods pulpwood chips, and stumpwood (tarwood).

Reorganization and Coordination

SB 345 – Establishing Agriculture Authorities

Sponsored by Sen. Melson

Allows counties to establish agriculture authorities for the creation and administration of agriculture centers and sets up procedures for establishment of the authorities. The bill provides the groundwork for a 10,000-seat agriculture center near Florence, Alabama.

The act states that these agriculture authorities may work to promote agricultural businesses, farms, and commodities as well as economic and workforce development ventures.

Solid Waste

HB 192 – Solid Waste Fees

Sponsored by Rep. Standridge

Mandates that a portion of the fees collected from dumping or depositing of solid waste material must be distributed to the Blount County Commission instead of the State Forestry Commission for distribution to the Blount County Fire and EMS Association.

HB 328 – Solid Waste Facility Review

Sponsored by Reps. Baker, McMillan, Shiver, and Faust

Requires that the approval of a new solid waste facility by a local governing body must undergo review by a circuit court for approval.

The bill also removes a requirement that “a proposed new solid waste management facility or a modification of a permit for an existing facility be evaluated by a regional planning and development commission.”



ARKANSAS

“ Arkansas adopted 20 energy and environmental bills during the 2017 legislative session. Notably, HB 1754 establishes guidelines for autonomous vehicle platooning, a new technology with big implications for transit and energy efficiency. SB 265 promotes natural gas expansion by providing for rate adjustments to recover costs. The Voluntary Environmental Stewardship Program, established by SB 654, rewards organizations that use environmental management plans and demonstrate exceptional, sustained environmental performance. SB 633 establishes new duties for the Marketing Recyclables Program, such as developing a program for the coordination of all existing marketing programs for recyclables, working with existing industry to encourage the use of recyclables in their manufacturing processes, and advising and assisting state and local officials in all areas of recyclables marketing. ”

Energy Legislation

Alternative Energy Development

HB 1735 - Clean Fuel Rebates on Private and Public Vehicle Charging Stations

Sponsored by Rep. Pilkington

Amends the title of the “Arkansas Clean-burning Motor Fuel Development Act” to the “Arkansas Alternative Motor Fuel Development Act.” The law is amended to include “electricity” as a qualified alternative motor vehicle fuel.

The bill adds to existing law that the Arkansas Department of Environmental Quality may offer a rebate on approved private and public vehicle charging stations. The rebate is not to exceed 50 percent or \$900 for private persons and 50 percent or \$5,000 for public stations.

HB 1778 - Arkansas Industrial Hemp Act

Sponsored by Rep. Hillman

Establishes the Arkansas Industrial Hemp Act, which will create a research program to assess the agricultural and economic potential of industrial hemp production in the state. The act is intended to “assist the state in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors.”

Coal and Minerals

SB 114 - Delinquent Taxes on Mineral Interests Notice

Sponsored by Sen. Hester

Amends the requirements for publishing notice of delinquent taxes on mineral interests. This bill requires a county collector to prepare a list of delinquent taxes on mineral interests within the county and post these findings on a publicly available website. Once published, there is a one-year period to allow repayment before the owner forfeits rights to the land.

Energy Efficiency

HB 1754 - Regulating the Testing of Autonomous Driving Technology

Sponsored by Rep. Collins

Regulates the testing of vehicles with autonomous technology as it relates to vehicles equipped with driver-assistive “truck platooning systems.”

The state defines the platooning systems as “technology that integrates sensor array, wireless communication, vehicle controls, and specialized software to synchronize acceleration and braking between two or more vehicles while leaving each vehicle’s steering control and systems monitoring and intervention in the control of its human operator.”

A person may operate a driver-assistive truck platooning system on a street or highway if the person files a plan for general platooning operations with the State Highway Commission and the plan is approved.

SB 326 - Capital Improvement Projects General Improvement Appropriation *Sponsored by House of Representatives Joint Budget Committee*

Appropriates \$1.5 million for "Green" Initiatives for "the Capitol building, facilities and grounds including ventilation system cleaning, energy efficiency improvements and assessment, analysis and consulting services, recycling programs and/or related construction, renovation and equipping of and/or conversion to or purchase of compressed natural gas vehicles and equipment including installation of a refueling station."

The Constitution of Arkansas prevents the appropriation taking immediate effect, so an emergency clause was added to allow the bill to circumvent the waiting period.

Natural Gas and Petroleum

SB 265 - Promoting Natural Gas Infrastructure Expansion *Sponsored by Sen. Caldwell*

Promotes economic development and natural gas infrastructure expansion. The bill establishes that a gas utility granted a certificate for an extension project may recover excess expenditures through a rate or surcharge increase pending Arkansas Public Service Commission approval. Utilities applying for a certificate for extension are required to provide a "detailed description of the economic benefit to the gas utility and the gas utility's existing ratepayers" and an estimate of a potential surcharge or rate increase for its customers.

Reorganization and Coordination

HB 1312 - Technical Corrections: Coal Mine Examining Board *Sponsored by Rep. Shepherd*

Removes references to the now defunct Coal Mine Examining Board and transfers the board's duties to the Arkansas Department of Labor director.

SB 256 - Transferring Powers of the Arkansas Energy Office *Sponsored by Sen. Irvin*

Transfers the Arkansas Energy Office to the Arkansas Department of Environmental Quality. All rules and regulations established by the Arkansas Energy Office in effect on January 1, 2017, are transferred as a matter of law to the Arkansas Pollution Control and Ecology Commission. The Arkansas Pollution Control and Ecology Commission will continue the Energy Office's mission to establish regulations for the implementation of operation and maintenance energy conservation measures in public buildings.

Utilities

HB 1550 – Nonmunicipal Domestic Sewage Treatment

Sponsored by Rep. Davis

Amends existing law concerning nonmunicipal domestic sewage treatment works to accomplish the following:

- Increase contributions to the nonmunicipal domestic sewage treatment works trust fund by nonmunicipal domestic sewage treatment works;
- Require documentation concerning future operations from nonmunicipal domestic sewage treatment works; and
- Prohibit new water connections to noncompliant, nonmunicipal domestic wastewater treatment systems.

If a nonmunicipal domestic sewage treatment works is found to be noncompliant, it will not receive reimbursement from the Nonmunicipal Domestic Sewage Treatment Works Trust Fund until the issue is remedied.

SB 376 – Establishing the Water Provider Legislative Task Force

Sponsored by Sen. Clark

Establishes the Water Provider Legislative Task Force to “aid in obtaining basic water service for as many Arkansans as possible, and to enhance economic development in the state.”

Before it expires January 1, 2019, the task force must provide the following:

- A vision report for where Arkansas should be in the future;
- An action report;
- Best practices for providing new service and any other area the task force chooses to report on; and
- A report on all tasks completed by January 1, 2019, to the Governor, the Director of the Arkansas Economic Development Commission, the Arkansas State Chamber of Commerce, the Arkansas Municipal League, the Association of Arkansas Counties, water providers, and the members of the Senate Committee on City, County, and Local Affairs and the House Committee.

SB 435 – Protecting Personal Information of Water Utility Customers

Sponsored by Sens. Bond, Chesterfield, Elliott, English, and Hutchinson

Exempts water utilities from the requirement to respond to Freedom of Information Act (FOIA) requests in relation to the personal information of its customers.

SB 651 – Public-private Partnerships for Public Buildings and Facilities

Sponsored by Sen. Sanders

Authorizes the state and its agencies to enter into public-private partnerships for public building and public facility projects. The bill requires the Arkansas Economic Development Commission the Arkansas

Development Finance Authority to create regulations jointly to establish guidelines for public-private partnerships.

Before issuing a request for proposals or an invitation for bids, a public entity, such as a utility plant or distributed generation facility, must “seek the advice and consent of the Arkansas Economic Development Commission and the Arkansas Development Finance Authority and receive designation as the responsible public entity for purposes of developing the qualifying project.”

Environmental Legislation

Air Quality and Pollution Control

SB 654 - Establishing the Voluntary Environmental Stewardship Program
Sponsored by Sen. Sanders

Creates the Voluntary Environmental Stewardship Program to reward organizations that use environmental management plans and demonstrate exceptional, sustained environmental performance.

At the discretion of the Director of the Arkansas Department of Environmental Quality, the voluntary environmental stewardship program provides incentives for organizations that demonstrate sustained compliance with environmental laws or go above and beyond environmental law requirements, such as:

- Reduced inspection frequency;
- Reduced reporting requirements; or
- Advanced notification of inspections and enforcement rulings.

The voluntary environmental stewardship program includes tiers relative to the environmental impacts of an organization’s facilities, activities, products, or services, and based on an organization’s level of commitment to the Voluntary Environmental Stewardship Program.

Membership and tier level assignment is based on the organization’s commitment to the following:

- Sustained compliance with environmental laws and history of compliance with environmental laws;
- Developing, implementing, and maintaining an environmental management system;
- Going above and beyond the requirements of environmental laws;
- Pollution prevention and improving its environmental performance; and
- Reporting to the department on its environmental performance annually.

Emergency Management and Homeland Security

HB 1521 - Burning Storm Debris in a Disaster Area

Sponsored by Reps. Richmond, Jean, Fite, Hodges, Holcomb, Payton, Smith, and Sullivan

Provides that counties deemed a disaster area may legally burn storm debris to expedite any recovery efforts, unless prohibited by federal law. Open burning is restricted to “vegetative storm debris” and must be completed within 120 days of the county being declared a disaster area.

Environmental Health Services

HB 1513 - Asbestos Abatement Grant Program Modifications

Sponsored by Rep. Holcomb

Modifies existing law concerning the Asbestos Abatement Grant Program to include structures under “imminent risk of collapse” as qualifying for grant money. Language exempting single or multi-family dwellings from receiving a grant also was added.

Land Management and Conservation

HB 1554 - Protecting Natural Resources and Historical Artifacts

Sponsored by Reps. Drown, Vaught, Baltz, Douglas, Gonzales, Hillman, Jean, Jett, McNair, Rushing, and Tosh

Modifies existing criminal trespass statutes to increase the penalty if a trespasser is found in possession of a “harvesting device” meant to harvest natural resources such as timber or vegetation. The penalty also is increased if the premises contain a commercial fishing or fish breeding operation and the person involved is in possession of a fishing pole or net.

The bill also establishes protections for buried or submerged artifacts (“an object produced or shaped by human craft, such as a tool, weapon, coin, or ornament of archaeological, cultural, or historical interest or significance”) when a trespasser is found with a device primarily used for locating and/or unearthing artifacts.

Reorganization and Coordination

SB 633 - State Marketing Board For Recyclables and the Compliance Advisory Panel Amendments

Sponsored by Sen. Williams

Amends current law regarding the State Marketing Board for Recyclables and the Compliance Advisory Panel.

The bill raises the number of advisors on the panel from seven to nine. It adds a stipulation that at least two Governor-selected appointees are neither small business owners, owners of a recycling company, or representatives thereof.

The measure also establishes the panel must meet at least once annually in a meeting dedicated to small business stationary sources, with an emphasis on air quality issues.

The panel is now required to perform the following duties for its Marketing Recyclables Program:

- Develop a program for the coordination of all existing marketing programs for recyclables;
- Work with existing industry to encourage the use of recyclables in their manufacturing processes;
- Recruit new industries that use recyclables in their manufacturing processes;
- Maintain current information on market prices and trends; and
- Advise and assist state and local officials in all areas of recyclables marketing.

Solid Waste

HB 1267 - Waste Tire Program Consolidation

Sponsored by Rep. Fite

Consolidates the Waste Tire Program into the Used Tire Recycling and Accountability Program. The act implements “accountability measures” in the form of uniform electronic reporting meant to discern the financial viability and environmental impact of tire recycling centers.

Under this act, if a used tire recycling center joins with another to form an inter-district program, the program is eligible to receive \$25,000 each calendar year to assist in funding one illegal dumps control officer position.

HB 1669 - Landfill Disposal Fees for Electronic Equipment

Sponsored by Rep. Bragg

Revises language concerning landfill disposal fees on electronic equipment recycling. Any regional solid waste management board that is required to submit a regional plan also must develop and operate a computer and electronic equipment recycling program. The bill forbids more than 20 percent of moneys received from the Solid Waste Management Fund to go toward funding an electronics recycling program.

This measure also establishes the requirement for solid waste management boards that receive funding to report to the Arkansas Department of Environmental Quality how the funds were spent. The Arkansas Pollution Control and Ecology Commission may suggest regulatory changes necessary for funding and program reporting, accountability, and oversight.

Water Quality and Pollution Control

HB 1716 - Short-term Activities Affecting Arkansas Water Quality Standards

Sponsored by Rep. Richmond

Clarifies that the Director of the Arkansas Department of Environmental Quality may authorize short-term activities that have potential to affect compliance with Arkansas water quality standards if “the short-term

activity is essential to the protection or promotion of the public interest and no permanent or long-term impairment of beneficial uses is likely to result from the short-term activity.”

Short-term activities eligible for authorization include:

- Wastewater treatment facility maintenance;
- Fish eradication projects;
- Mosquito abatement projects;
- Algae and weed control projects;
- Dredge and fill projects;
- Construction activities; or
- Activities that result in overall enhancement or maintenance of beneficial uses.



FLORIDA

“ Florida adopted 13 energy and environmental bills during the 2017 legislative session. On the energy efficiency front, SB 90 extends property tax exemptions for commercial and residential renewable energy installations. SB 10 is an emergency bill meant to counteract the public health impacts and extensive environmental harm to wildlife and the aquatic ecosystem caused by widespread algae blooms. Two bills, HB 7077 and 7079, deal with the disbursement of Deepwater Horizon Oil Spill Settlement Funds meant to counteract the negative effects of the 2010 Deepwater Horizon Oil Spill. ”

Energy Legislation

Alternative Energy Development

SB 1726 - Industrial Hemp Pilot Projects

Sponsored by the Appropriations Committee, the Agriculture Committee, and Sen. Montford

Directs the Department of Agriculture and Consumer Services to authorize and oversee the development of industrial hemp pilot projects for certain universities. The bill also requires each university to obtain the authorization of its board of trustees before implementing a pilot project and to establish guidelines for the approval, oversight, and enforcement of pilot project rules.

Energy Efficiency

SB 90 - Renewable Energy Source Devices

Sponsored by the Community Affairs Committee and Sen. Brandes

Extends property tax exemptions for renewable energy installations both in commercial and residential applications. Effective July 1, 2017, this bill establishes that 80 percent of the assessed value of a renewable energy source device that is considered tangible personal property is exempt from ad valorem taxation if the renewable energy source device:

- Is installed on real property on or after January 1, 2018;
- Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or
- Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with at least 2 megawatts and no more than 5 megawatts of alternating current power when the renewable energy source devices in the project are used together.

The measure also defines procedures for the sale and installation of distributed energy generation systems, or systems designed to generate and store electricity excluding electric generators meant for occasional use.

Utilities

HB 879 - Unlawful Acquisition of Utility Services

Sponsored by the Justice Appropriations Subcommittee, Rep. Burgess, and Rep. Mercado

The bill revises provisions relating to utility theft as follows:

- Requires a court to include certain specified amounts in its order for civil damages or restitution related to the theft and labor costs;

- Allows the state to make a prima facie showing of the estimated losses of unlawfully obtained electric services based on any methodology reasonably relied upon by utilities;
- Allows the methodology to consider the estimated start date of the theft and the estimated daily or hourly use of electricity;
- Provides specified criteria to determine the estimated start date of the theft and the estimated daily or hourly use of electricity;
- Requires that once the state has made a prima facie showing the burden shifts to the defendant to demonstrate that the loss is something other than that claimed by the utility; and
- Allows the court to order a defendant to pay restitution for damages to the property of a utility or for the theft of electricity for criminal offenses that are causally connected to the utility theft.

These provisions take effect October 1, 2017.

Environmental Legislation

Air Quality and Pollution Control

SB 1018 – Public Notice of Pollution Act

Sponsored by the Appropriations Committee, Environmental Preservation and Conservation Committee, and Sen. Grimsley

Requires an owner or operator of an installation at which a reportable pollution release occurred to provide certain information to the newly created “State Watch Office” under the Division of Emergency Management within 24 hours after the discovery of the release.

A ‘reportable pollution release’ means the release or discharge of a substance from an installation to the air, land, or waters of the state that is discovered by the owner or operator of the installation and is not authorized by law.

The office is meant to be a “clearinghouse of information” rather than a dispatch center. The office is required to post any information it receives in relation to a pollution release on a publicly accessible website within 24 hours of receipt.

Coastal Zone Management

HB 7077 – Disbursing Deepwater Horizon Oil Spill Settlement Funds

Sponsored by the Select Committee on Triumph Gulf Coast and Rep. Trumbull

Amends the Gulf Coast Economic Corridor Act to require 75 percent of all payments made to the state related to the Deepwater Horizon oil spill settlement be immediately transferred from the General Revenue Fund to the Triumph Gulf Coast Trust Fund created by HB 7079.

The bill establishes the Triumph Gulf Coast, Inc. nonprofit organization in order to disburse the funds appropriately. The following eight counties are identified by the legislation as “disproportionately affected”

by the 2010 oil spill: Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, and Wakulla County.

Triumph Gulf Coast, Inc., must make awards for projects or programs within the geographic boundaries of each disproportionately affected county based on the following minimum allocations:

- At least 40 percent of the moneys transferred to Triumph Gulf Coast, Inc. must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 5 percent per county.
- For each transfer of funds to Triumph Gulf Coast, Inc. at least 32 percent must be allocated equally among the eight disproportionately affected counties based on a minimum allocation of at least 4 percent per county.

HB 7079 - Establishing the Triumph Gulf Coast Trust Fund

Sponsored by the Select Committee on Triumph Gulf Coast and Rep. Trumbull

Creates the Triumph Gulf Coast Trust Fund within the Department of Economic Opportunity. This is a companion bill to HB 7077.

SB 884 - Penalties for “Finning” Sharks in Florida Waters

Sponsored by the Appropriations Committee, Environmental Preservation and Conservation Committee, and Sen. Hutson

Establishes misdemeanor penalties for possession of “separated shark fins.” This bill prohibits all possession of separated shark fins in or on the waters of Florida unless the fin was acquired for display only via taxidermy performed legally on land.

Emergency Management and Homeland Security

HB 457 - Defining Agroterrorism Procedures

Sponsored by the Judiciary Committee and Rep. Gonzalez

Modifies existing law to include “agroterrorism” definitions and penalties. The bill labels it a second-degree felony to intentionally disseminate or spread any type of contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals.

Inland Water Resource Management and Conservation

HB 573 - Headwaters Protection and Sustainability

Sponsored by the Agriculture and Natural Resources Appropriations Subcommittee, Natural Resources and Public Lands Subcommittee, and Rep. Burton

Creates the “Heartland Headwaters Protection and Sustainability Act.” This act declares that there is an important state interest in partnering with regional water supply authorities and local governments to protect the water resources of the headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace,

and Withlacoochee Rivers and the surrounding areas. The act declares that “funding consideration be given to regional collaborative solutions, including, but not limited to, the heartland counties, to manage the water resources of the state.”

The act compels the Polk Regional Water Cooperative, in coordination with all of its member county and municipal governments, to prepare a comprehensive annual report for water resource projects identified for state funding considerations. The report must include a list of projects under consideration for state funding under each of the following categories:

- Drinking water supply;
- Wastewater;
- Stormwater and flood control;
- Environmental restoration; and
- Conservation.

SB 10 - Emergency Funding and Workforce Development in the Everglades *Sponsored by the Appropriations Committee and Sen. Bradley*

Declares that an emergency exists regarding the St. Lucie and Caloosahatchee estuaries due to the high-volume freshwater discharges to the east and west of Lake Okeechobee. According to the Legislature, such discharges have “manifested in widespread algae blooms, public health impacts, and extensive environmental harm to wildlife and the aquatic ecosystem.”

The bill authorizes the South Florida Water Management District and the Board of Trustees of the Internal Improvement Trust Fund to negotiate the amendment and termination of leases on lands within the Everglades Agricultural Area for exchange or use for the Everglades Agricultural Area storage reservoir project.

The bill allows for the use of state funds for the reservoir project that is meant to reduce the discharges and improve the flows to the Everglades. The following areas should receive priority funding:

- The Lake Okeechobee Watershed project to the north of the lake;
- The Everglades Agricultural Area reservoir project to the south of the lake;
- The C-43 West Basin Reservoir Storage project to the west of the lake; and
- The Indian River Lagoon-South project to the east of the lake.

This bill also requests that the United States Army Corps of Engineers pursue the reevaluation of the Lake Okeechobee Regulation Schedule as expeditiously as possible, taking into consideration the repairs made to the Herbert Hoover Dike and implementation of projects designed to reduce high-volume freshwater discharges from the lake, in order to optimally utilize the added water storage capacity to reduce the high-volume freshwater discharges to the St. Lucie and Caloosahatchee estuaries.

The Department of Economic Opportunity, in cooperation with CareerSource Florida, Inc., is required to establish the Everglades Restoration Agricultural Community Employment Training Program within the

department for the purpose of stimulating and supporting training and employment programs seeking to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment and to provide other training, educational, and information services necessary to stimulate the creation of jobs in areas of high agricultural unemployment.

Land Management and Conservation

HB 1027 - Regulating Personal Delivery Devices and Creating the Unmanned Aircraft Systems Act

Sponsored by the Transportation and Infrastructure Subcommittee, Reps. Yarborough, Renner, and Williamson

Establishes a regulatory framework for personal delivery devices (PDDs), creating definitions and approved operating parameters under the Florida Uniform Traffic Control Law. The bill amends authorizes PDD operation in the absence of a local prohibition and authorizes local governmental entities to regulate operation of PDDs within county or municipal jurisdictions under certain conditions.

PDDs are treated like pedestrians by the bill and are specifically excluded from the definition of motor vehicles and the attendant registration and insurance requirements. The bill requires a person who owns and operates a PDD to maintain an insurance policy, on behalf of himself or herself and his or her agents, that provides general liability coverage of at least \$100,000 for damages arising from PDD operation.

The legislation also creates the “Unmanned Aircraft Systems Act.” It preempts local governments from regulating the operation of unmanned aircraft systems, but it does allow them to enact or enforce local ordinances relating to illegal acts arising from the use of unmanned aircraft systems if the ordinances are not specifically related to the use of a drone for the commission of the illegal acts.

The law protects critical infrastructure facilities, as defined in the bill, by prohibiting any person from knowingly or willfully:

- Operating a drone over a critical infrastructure facility, unless the drone is in transit for commercial purposes and is in compliance with Federal Aviation Administration regulations;
- Allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

The statute creates exemptions to these prohibitions, including for persons acting under the direction of a government or drones operating in transit for commercial purposes. A first violation of a prohibition is a second-degree misdemeanor and a second or subsequent violation is a first-degree misdemeanor. It is anticipated that the Federal Aviation Administration will adopt a process for seeking designation as a fixed site facility, and this portion of the bill will sunset 60 days after the effective date of such process.

A person is prohibited from possessing or using a weaponized drone by this bill. However, it authorizes the use of a drone by a communications service provider or a contractor for a communications service provider for routing, siting, installation, maintenance, or inspection of facilities used to provide communications services.

Reorganization and Coordination

HB 181 - Interagency Workgroup to Share Natural Hazards Information *Sponsored by the Appropriations Committee and Rep. Jacobs*

Creates the Natural Hazards Interagency Workgroup for the purpose of “sharing information on the current and potential impacts of natural hazards throughout the state, coordinating the ongoing efforts of state agencies in addressing the impacts of natural hazards, and collaborating on statewide initiatives to address the impacts of natural hazards.”

The bill defines the term “natural hazards” as including, but not limited to, extreme heat, drought, wildfire, sea-level change, high tides, storm surge, saltwater intrusion, stormwater runoff, flash floods, inland flooding, and coastal flooding.

The legislation also calls for the Division of Emergency Management to prepare an annual progress report on the implementation of the state’s hazard mitigation plan. The annual progress report must, at a minimum, provide the following:

- Assess the relevance, level, and significance of current agency efforts to address the impacts of natural hazards; and
- Strategize and prioritize ongoing efforts to address the impacts of natural hazards.

Solid Waste

HB 335 - Resource Recovery and Management *Sponsored by the Natural Resources and Public Lands Subcommittee Committee, Reps. Mariano, Watson, Clemons, Massullo, Byrd, Renner, Leek, and Rommel*

Adds post-use polymers and pyrolysis facilities to those materials and facilities that are exempt from solid waste regulations. A majority of the post-use polymers at a facility must be sold, used, or reused within one year. The post-use polymers and the pyrolysis facility must meet the other existing statutory criteria applicable to recovered materials and recovered materials processing facilities. The bill specifies that the terms “used” or “reused” include, but are not limited to, the conversion by gasification or pyrolysis of post-use polymers into crude oil, fuels, feedstocks, or other raw materials or intermediate or final products. The bill also adds new definitions for the following terms:

- Gasification to fuels, chemicals, and feedstocks;
- Post-use polymers;
- Pyrolysis; and
- Pyrolysis facility.

The measure amends existing definitions of terms to add references based on the exemption from solid waste regulations for converting post-use polymers by gasification or pyrolysis to fuels, chemicals, and feedstocks.

Finally, the bill clarifies that Department of Environmental Protection and local governments must regulate post-use polymers and pyrolysis facilities according to the same provisions that govern recovered materials and recovered materials processing facilities.



GEORGIA

“ Georgia adopted 11 energy and environmental bills during the 2017 legislative session. HB 452 establishes that the hacking of critical infrastructure, such as an electric utility, is considered an act of terrorism and is punishable as such. Continuing the trend of autonomous vehicle guidelines passing through legislatures across the nation, Georgia establishes its own guidelines with SB 219. HB 413 regulates the siting, permitting, and construction of petroleum pipelines across Georgia. Finally, HB 481 establishes legislation dealing with the launching and landing of drones on public property. ”

Energy Legislation

Emergency Management and Homeland Security

HB 251 – Department of Corrections Personnel in an Emergency

Sponsored by Reps. Ealum, Powell, Houston, Carter, and Rynders

Allows for (when under a state of emergency or disaster) Department of Corrections personnel and individuals in their custody to enter onto private property for approved measures such as:

- Infrastructure repair and relocation;
- Restoration of services;
- Debris removal; and
- Property protection.

HB 452 – Establishing Domestic Terrorism and Protecting Critical Infrastructure

Sponsored by Reps. Petrea, Hitchens, Powell, Reeves, and Clark

Adds language to set up definitions and punishments for acts of domestic terrorism. If “critical infrastructure”, a state or government facility, or a public transportation system is disabled or destroyed, the assumed punishment is imprisonment for not less than five but not more than 69 years.

‘Critical infrastructure’ means “publicly or privately owned facilities, systems, functions, or assets, whether physical or virtual, providing or distributing services for the benefit of the public, including, but not limited to, energy, fuel, water, agriculture, health care, finance, or communication.” This language is meant to protect critical assets from both tangible acts and acts related to hacking of critical infrastructure.

Energy Efficiency

HB 238 – Solar Generation Installation Ad Valorem Taxation

Sponsored by Reps. Hatchett, Abrams, England, LaRiccia, and Epps

Inserts language into existing law concerning the installation of solar electric generation equipment. This law removes the ad valorem taxation of individuals who wish to install solar equipment on land that the state of Georgia considers “protected.”

SB 219 – Autonomous Motor Vehicles Rules and Procedures

Sponsored by Sens. Gooch, Beach, Mullis, Harper, and Watson

Establishes rules and procedures for the ownership and operation of autonomous motor vehicles and the related Automated Driving Systems (ADS) technology.

The bill states that applicable vehicles must be registered as automated vehicles with the Department of Motor Vehicles. Owners must maintain a valid insurance policy and follow speed limits designated by local order. Because human operators are not required in vehicles equipped with ADS, passengers are not mandated to have valid driver’s licenses.

Natural Gas and Petroleum

HB 413 – Siting, Permitting, and Construction of Petroleum Pipelines

Sponsored by Rep. Parsons and Rep. Burns

Regulates the siting, permitting, and construction of petroleum pipelines in Georgia. This legislation sets up the requirement for permit from the State Environmental Protection Division (EPD) Director and a certificate of necessity and convenience from the Georgia Department of Transportation Commissioner before the construction or extension of any new pipeline in the state of Georgia.

The permit and certificate of necessity and convenience is required even if the pipeline company intends to exercise the power of eminent domain. The EPD permitting application must include siting information, a cultural resource assessment, information on geologic and hydrologic features, information on the presence of threatened or endangered species, and evidence of financial responsibility. The bill compels any company seeking a permit to construct or extend any petroleum pipeline in the state to give proper notice to any property owner within 1,000 feet of the proposed pipeline right-of-way. A process is also established in which any property owner within 1,000 feet of the proposed pipeline can file a petition within 30 days of the issuance of public notice and be provided the right to a hearing before an administrative law judge.

Utilities

HB 171 - Meriwether County Water and Sewage Authority Modifications

Sponsored by Rep. Trammell and Rep. Buckner

Modifies existing law concerning the Meriwether County Water and Sewage Authority to have its five members serve “districts” rather than nondescript “posts.”

SB 281 – Macon Water Authority Act Modifications

Sponsored by Sen. Kennedy

Modifies an existing act known as the “Macon Water Authority Act” to extend the power of the Authority to contract with Macon-Bibb County and the Macon-Bibb County Industrial Authority to acquire, construct, and develop industrial sites and facilities. The authority may utilize its revenues from its water and sewer operations for the performance of such contracts; provided that such contracts do not require or permit the expenditure of authority funds in excess of \$704,000 per annum or an aggregate of more than \$35.2 million over the life of the contract(s).

Environmental Legislation

Emergency Management and Homeland Security

HB 405 – Transport of Essentials in an Emergency

Sponsored by Reps. Hitchens, Lumsden, Rogers, Powell, and Tanner

Directs the Georgia Emergency Management and Homeland Security Agency to establish a state-wide system to facilitate the transport of essentials in commerce during a state of emergency to ensure the continuing resilience of communities impacted by such an emergency.

For this act, the term 'essentials' means "goods that are consumed or used as a direct result of a state of emergency declared by the Governor or that are consumed or used to preserve, protect, or sustain life, health, safety, or economic well-being."

Environmental Health Services

HB 434 - Eminent Domain Over Blighted Property and Private Development
Sponsored by Reps. Willard, Smyre, Stephens, Beskin, and Fleming

Modifies the provisions of eminent domain to allow local municipalities to seize and sell blighted property for private development. Previously, only public endeavors were allowed on seized property unless 20 years had passed from the time of seizure.

Land Management and Conservation

HB 481 - Launching and Landing of Drones
Sponsored by Reps. Tanner, Golick, Rynders, and Epps

Regulates the launching and landing of drones in Georgia. This bill allows for state agencies and departments to set its own rules to provide for or prohibit the launching or landing of drones on public property except "with respect to the operation of an unmanned aircraft system for commercial purposes."

Reorganization and Coordination

HB 183 - Georgia Geospatial Advisory Council Reorganization
Sponsored by Reps. Dickey, Epps, Brockway, and Gilligan

Amends existing law to move the Georgia Geospatial Advisory Council from operating under the direction of the Environmental Protection Division of the Department of Natural Resources to the Department of Community Affairs.

The goals of the council remain the same. The council is asked to make recommendations for the following:

- Utilizing geospatial capabilities in Georgia to meet any federal notification requirements;
- Moving forward to achieve reliable governmental data interoperability and enhanced delivery of services to Georgia citizens through the geospatial approach; and
- Any other aspects of data collection, information optimization, and innovation determined by the council to be necessary for the advancement of geospatial technology.



KENTUCKY

“ Kentucky adopted 11 energy and environmental bills during the 2017 legislative session. Notably, members of the Kentucky legislature urged the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code with HR 176 and SR 182. HB 377 reduces and phases out assessments paid by coal companies to help cover claims related to coal workers’ pneumoconiosis. SB 11 modifies rules relating to nuclear waste storage including a prohibition on constructing low-level nuclear waste storage facilities. HB 119 amended existing law to include “solid waste management services” within the definition of “solid waste management.” The bill also prohibits the displacement of a solid waste management service by a local government without first offering notification and public hearing. ”

Energy Legislation

Alternative Energy Development

HR 176/SR 182 – Resolution Urging Congressional Action Regarding Carbon Capture
Sponsored by Rep. Adkins; Sen. Ridley

Urges the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code.

The resolution also asks Congress to support the inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative.

Finally, the resolution urges Congress to support policies to increase the operational efficiency, and thereby the environmental performance, of existing electric-generating units and to support the preservation of a fuel-diverse electric generation portfolio critical to Kentucky’s domestic economic, energy, and national security.

Coal and Minerals

HB 234 – Coal Mining Permitting

Sponsored by Reps. Gooch, Blanton, Miles, Mills, and Prunty

Modifies existing regulations related to coal mining permitting. Previously, the legislation referenced the “mining site” rather than “permit area.”

This bill also removed the requirement that all areas overlying underground workings receive permitting.

HB 377 - Modifications to Coal Workers Compensation Claims Procedure

Sponsored by Rep. DeCesare

Reduces and phases out assessments paid by coal companies to help cover claims relating to coal workers’ pneumoconiosis, also known as black lung.

According to the legislature, “The Kentucky coal workers’ pneumoconiosis fund will not have adequate funding without burdensome assessments on coal employers in order to meet claim liabilities and administrative expenses in the upcoming years.”

This bill closes the Kentucky coal workers’ pneumoconiosis fund on July 1, 2017, to any coal workers’ pneumoconiosis claims filed after June 30, 2017, and transfers any assets and liabilities of the Kentucky coal workers’ pneumoconiosis fund to the Kentucky Employers’ Mutual Insurance Authority, which is a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth.

HB 384 – Reducing Number of Required Electrical Inspections in Underground Mines

Sponsored by Rep. Benvenuti and Rep. Prunty

Amends existing underground coal mining legislation to require one annual “full electrical inspection” rather than two. Overall, six annual inspections are still required, three of which should be “mine safety analysis visits.”

Reorganization and Coordination

SB 249 Reorganization of the Energy and Environment Cabinet
Sponsored by Sen. Carpenter

Amends existing law to remove the Environmental Quality Commission and the Kentucky Mining Board from under the Energy and Environment Cabinet and attaches the Center for Renewable Energy Research and Environmental Stewardship to other departments.

Environmental Legislation

Inland Water Resource Management and Conservation

HJR 56 - Kentucky Division of Water Study
Sponsored by Reps. Webber, Johnson, DuPlessis, Hatton, Miles, and Tipton

Directs the Kentucky Division of Water to conduct a study identifying the following:

- Privately owned and operated small wastewater treatment plants in the state;
- Indicators that are useful and necessary in conducting an assessment of the risks of financial failure, technical failure, structural failure, or abandonment of privately owned and operated small wastewater treatment plants;
- Potential emergency intervention methods to respond to plant failures in a collaborative manner between state and local entities; and
- Legislative changes that may assist to mitigate the failure or abandonment of small wastewater treatment plants or to otherwise provide for continuity of service to the plants' customers.

A progress report must be submitted by July 31, 2017, with the final report being completed prior to the start of the 2018 legislative session.

Radioactive Waste

SB 11 - Modifying the Robert J. Leeper Act Relating to Nuclear Waste Storage
Sponsored by Sens. Carroll, Humphries, and West

Requires that nuclear power facilities have a plan for the storage of nuclear waste rather than a means of permanent disposal. The bill also defines "storage," "low-level nuclear waste," and "mixed nuclear waste" for the purposes of the law.

The Public Service Commission may certify a nuclear power facility only if it finds that the facility and plan for storage of the facility's high-level nuclear waste have been approved by the Nuclear Regulatory Commission. The construction of low-level nuclear waste (items that have become contaminated with radioactive material or have become radioactive through exposure to neutron radiation) disposal sites in the Commonwealth is prohibited.

SB 248 Defining Naturally-Occurring and Technologically-Enhanced Radioactive Material *Sponsored by Sen. Carpenter*

Provides new definitions within the Kentucky Revised Statutes for naturally-occurring radioactive material (NORM) and Technologically-enhanced, naturally-occurring radioactive material (TENORM).

NORM means any of the primordial radionuclides or radioactivity present in soils, rocks, and other materials not concentrated or disturbed as a result of human activities.

TENORM is any naturally occurring radioactive material with a radionuclide concentration that has been increased by human activities above levels encountered in the natural state or is naturally occurring radioactive material made more accessible by human activity.

Drill cuttings generated from wells permitted and regulated by the Energy and Environment Cabinet containing naturally-occurring radioactive materials that have been made more accessible are not regulated as TENORM.

Reorganization and Coordination

HB 376 Modifications to Division Names under Department of Fish and Wildlife Resources *Sponsored by Rep. Hale*

Changes the names of two divisions under the Department of Fish and Wildlife Resources. The Division of Engineering is now the Division on Engineering, Infrastructure, and Technology. The Division of Public Affairs is now the Division of Marketing.

Solid Waste

HB 119 - Definitions and Prohibitions Relating to Solid Waste Management *Sponsored by Reps. Gooch Jr., Castlen, Benvenuti III, Hale, Riggs, and Santoro*

Amends the Kentucky Revised Statutes to define "franchise," "local government," and "service company" and include "solid waste management services" in the definition of "solid waste management." This bill also prohibits a local government from displacing a current provider of solid waste management services without first offering notification and a public hearing.

HB 246 - Amending Existing Solid Waste Management Law *Sponsored by Reps. Miller, Riggs, Bratcher, Fleming, and Moffett*

Prohibits a county or waste management district from prohibiting or restricting materials recovery by a city in a county containing a consolidated local government. This bill also prohibits the consolidated local government or waste management district from hindering, delaying, impairing, prohibiting, or impeding a city or its contractors from utilizing a solid waste management facility. A county or waste management district is further prohibited from levying a fee, directly or indirectly, that is based on the composition of the solid waste stream of the city if, according to the act, "the waste stream is in conformity with state and federal law for the use of the solid waste management facility receiving the waste."



LOUISIANA

“ Louisiana adopted 15 energy and environmental bills during the 2017 legislative session. HB 533 directs the Louisiana Department of Health to lead a collaborative effort to evaluate the issues and conditions of drinking water treatment and distribution throughout the state. The legislature created the Emergency Management Assistance Compact with SB 151. The compact’s purpose is providing for mutual assistance between the states entering into the compact in managing any emergency disaster that may be duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack. ”

Energy Legislation

Emergency Management and Homeland Security

SB 151 – Creating the Emergency Management Assistance Compact

Sponsored by Sen. White and Sen. Thompson

Creates the Emergency Management Assistance Compact. The compact’s purpose is to “provide for mutual assistance between the states entering into the compact in managing any emergency disaster that may be duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.”

Additionally, the party states, where possible should accomplish the following:

- Review individual state hazards analyses and determine all potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
- Review party states’ individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
- Develop interstate procedures to fill any identified gaps and resolve any identified inconsistencies or overlaps in existing or developed plans;
- Assist in warning communities adjacent to or crossing the state boundaries;
- Protect and ensure uninterrupted delivery of services, medicines, water, food, energy, fuel, search and rescue, critical lifeline equipment, services, and resources, both human and material;
- Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
- Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

The bill also sets up procedures for how to request the assistance of another state for emergency response.

Energy Efficiency

SB 112 – Performance-based Energy Efficiency Contract Modifications

Sponsored by Sen. White

Amends existing law on performance-based energy efficiency contracts to include language that allows for modifications, change orders, and approval thereof.

If at any time after the execution of a performance-based energy efficiency contract, a state agency makes a unilateral change or modification to the scope of work under the contract, the annual energy cost savings attributable to the services or equipment must be adjusted to account for any expended costs and any

projected savings that can no longer be measured or verified as a result of the change or modification. However, any adjustment that reduces the annual energy cost savings attributable to the services or equipment by 20 percent or more requires approval of the Joint Legislative Committee on the Budget prior to the amendment of the contract.

This applies to all performance-based energy efficiency contracts in effect on and after January 1, 2010.

Reorganization and Coordination

HB 389 – Commissioner Powers for Pipeline Damage Prevention Enforcement *Sponsored by Rep. Carmody*

Authorizes the commissioner of conservation of the Louisiana Department of Natural Resources to enforce the Louisiana Underground Utilities and Facilities Damage Prevention (OneCall) law as it applies to the prevention of damage to pipelines.

For the prevention of damage to pipelines, the powers of the commissioner include but are not limited to the following:

- Monitoring any excavation or demolition, including requests for the excavator or demolisher to provide the locate request number issued by a regional notification center;
- Issuing citations or ordering other penalties or remedies;
- Seeking restraining orders, injunctions, or any other available civil remedies; and
- Utilizing any other enforcement powers that may be provided by law.

Environmental Legislation

Coastal Zone Management

HB 144 - Integrated Coastal Restoration Project Amendments Ending Perpetual Servitudes *Sponsored by Rep. Zeringue*

Amends existing private property and public rights laws so that no full ownership interest in property may be acquired for integrated coastal protection through any method by the state of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, including, but not limited to, compensatory mitigation and ecosystem restoration purposes.

Such interest must be voluntarily offered and agreed to in writing by owners with at least 75 percent ownership in the property or such entity seeking to acquire the property proves by clear and convincing evidence in a court of competent jurisdiction that a full ownership interest is the minimum interest necessary to carry out the purposes of integrated coastal protection for the specific project for which it is acquired.

Access rights, rights of use, servitudes, easements, or other property interests acquired for integrated coastal protection through any method by the state of Louisiana, the Coastal Protection and Restoration Authority, a levee district, a levee authority, a sponsoring authority, a political subdivision, or any other state, local, or federal entity, or their agents or employees, including but not limited to compensatory mitigation and ecosystem restoration purposes, may be for a fixed term only and should not be acquired in perpetuity unless such acquisition in perpetuity is voluntarily offered and agreed to in writing by owners with at least 75 percent ownership in the property. Furthermore, no fixed term for any access rights, rights of use, servitudes, easements, or other property interests acquired for integrated coastal protection must exceed the life of the integrated coastal protection project for which it is acquired unless such term is voluntarily offered and agreed to in writing by owners with at least 75 percent ownership in the property.

HB 474 - Issuance of Alternative Oyster Culture Permits

Sponsored by Rep. Garofalo

Authorizes the issuance of an alternative oyster culture permit by the Department of Wildlife and Fisheries to a person holding an oyster lease on a privately-owned water bottom.

The text of the law is revised to extend permits “to a person owning a water bottom or holding an oyster lease on a privately owned water bottom or a dual-claimed water bottom.”

The Department of Wildlife and Fisheries retains the right to “determine areas that are unsuitable or inappropriate for alternative oyster culture activities due to creation of unreasonable conflicts with other existing or anticipated uses of state waters and water bottoms, including, but not limited to, integrated coastal protection projects.”

HB 475 - Crab Trap Prohibition During Closed Season

Sponsored by Reps. Gisclair and Garofalo

Authorizes the Wildlife and Fisheries Commission to prohibit crab traps in state-owned water bottoms during closed season.

HB 674 - Seafood Research and Economic Development

Sponsored by Rep. Gisclair

Authorizes certain areas near the Grand Isle for seafood research. It also allows for the Grand Isle Port Commission to work in cooperation with the Louisiana Sea Grant program on seafood research and economic development program in the area.

HCR 113 - Resolution on Red Snapper Management and Regulations

Sponsored by Rep. Ivey

Request the Department of Wildlife and Fisheries to not move forward with implementation of the red snapper exempted fishing permit application that has been submitted to the National Marine Fisheries Service in the National Oceanic and Atmospheric Administration.

The resolution asks that the department “aggressively pursue the opportunity to gain approval for state management of the red snapper fishery in the state and federal waters off the Louisiana coast in a manner that enables all fishermen, not a select few, to enjoy the bounty of fish available to anglers in those waters.”

SR 1 - Approve the Annual Integrated Coastal Protection Plan for Fiscal Year 2018
Sponsored by Sen. Morrish and Sen. Alario

Approve the annual integrated coastal protection plan for Fiscal Year 2018 as adopted by the Coastal Protection and Restoration Authority Board.

Emergency Management and Homeland Security

HB 266 - Term Limits for Members of the Nominating Committee of Certain Flood Protection Authorities
Sponsored by Rep. Connick

Provides for term limits for members of the nominating committee of the Southeast Louisiana Flood Protection Authority-East and the Southeast Louisiana Flood Protection Authority-West Bank. Term limits will be 8 years for all nominating committee members.

SB 151 - Creating the Emergency Management Assistance Compact
Sponsored by Sen. White and Sen. Thompson

Creates the Emergency Management Assistance Compact. The compact's purpose is to "provide for mutual assistance between the states entering into the compact in managing any emergency disaster that may be duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack."

Additionally, the party states, where possible should accomplish the following:

- Review individual state hazards analyses and determine all potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
- Review party states' individual emergency plans and develop a plan that will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
- Develop interstate procedures to fill any identified gaps and resolve any identified inconsistencies or overlaps in existing or developed plans;
- Assist in warning communities adjacent to or crossing the state boundaries;
- Protect and ensure uninterrupted delivery of services, medicines, water, food, energy, fuel, search and rescue, critical lifeline equipment, services, and resources, both human and material;
- Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and
- Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

The bill also sets up procedures for how to request the assistance of another state for emergency response.

Environmental Health Services

HB 111- Litter Prevention in Public Schools

Sponsored by Reps. Bishop, Glover, and Thibaut; Sen. Walsworth

Requires public schools to provide instruction in litter prevention and awareness from kindergarten through grade five. The instruction must be inserted into “existing curriculum and may include instructional materials created and developed for students in Louisiana to assist such students in making environmentally sound decisions and understanding the vital role they play in preserving the beauty of the state.” Charter schools are not exempt from this act.

Inland Water Resource Management and Conservation

HB 156 - Provides for the Gear Authorized for Oyster Harvest on Calcasieu Lake and Sabine Lake

Sponsored by Rep. Dwight

Revises existing law to require all oysters harvested from Calcasieu Lake and Sabine Lake to be extracted using hand tongs.

Land Management and Conservation

HB 608 - Protecting Native Plants

Sponsored by Rep. White

Allows the Department of Wildlife and Fisheries to manage, regulate, and conserve native plants in addition to wildlife. In the context of the bill, ‘native plant’ means “any nonvascular or vascular plant occurring outside of cultivation, excluding species that are known to have escaped cultivation or to have been intentionally or unintentionally introduced from outside of Louisiana since European colonization.”

The bill also establishes that it is unlawful to destroy or harvest any threatened or endangered native plants on either public or private land without proper permission either from the landowner or the Department of Wildlife and Fisheries.

Water Quality and Pollution Control

HB 533 - Drinking Water Standards

Sponsored by Reps. Hunter, Bagneris, Bishop, Cox, Jackson, Marcelle, and Pierre; Sens. Barrow, Boudreaux, and Claitor

The Louisiana Department of Health will lead a collaborative effort to evaluate the issues and conditions of drinking water treatment and distribution in communities throughout Louisiana by performing a thorough evaluation of the sanitary survey results for each water utility system across Louisiana and the effects deteriorating systems have on the safety, health, and well-being of Louisiana families, communities, and businesses.

The Louisiana Department of Health will solicit, as necessary, input, recommendations, and guidance from interested parties and stakeholders including, but not limited to, any of the following:

- State and local agencies involved in the regulation, treatment, and distribution of drinking water;
- Technical experts at the university and consulting levels; and
- Water utility system owners and operators, community members, and state legislators from areas with known public water quality issues.

A report developed from the results of the collaborative effort, including findings, recommendations, and proposed legislation, if necessary, must be submitted to the House and Senate committees on health and welfare no later than thirty days before the 2020 Regular Legislative Session begins.



MARYLAND

“ Maryland adopted 31 energy and environmental bills during the 2017 legislative session. This year, Maryland enacted a prohibition of hydraulic fracturing with HB 1325. HB 514 and SB 184 were identical bills compelling the Public Service Commission to require electric companies to procure or provide specified energy efficiency and conservation programs and services to its electricity customers on a specified savings trajectory through the 2023 program cycles. An energy storage system tax credit was established by SB 758. Finally, HB 125 requires specified dam owners to prepare and submit to the Department of the Environment an emergency action plan containing specified information by August 1, 2017. ”

Energy Legislation

Alternative Energy Development

HB 410/SB 313 – Creating the Maryland Energy Innovation Institute

Sponsored by Speaker Busch; President Miller

Establishes the Maryland Energy Innovation Institute as a part of the A. James Clark School of Engineering of the University of Maryland. The purposes of the Institute are to collaborate with academic institutions in the state to participate in clean energy programs and develop and attract private investment in clean energy innovation and commercialization in the state.

The bill also clarifies funding for the Institute by establishing the Maryland Energy Innovation Fund as a special, nonlapsing revolving fund in the University System of Maryland to be shared by the Institute and the Maryland Clean Energy Center.

HB 773 - Energy Storage Technology Study

Sponsored by Del. Korman

Requires the Power Plant Research Program to conduct a study of regulatory reforms and market incentives that may be necessary or beneficial to increase the use of energy storage devices in the state.

The bill requires the program to consult with specified entities and interests in conducting the study, such as:

- The Public Service Commission;
- The Office of People’s Counsel;
- The Maryland Energy Administration;
- Environmental organizations;
- Electric companies;
- Third-party providers of energy storage devices;
- Associations of third-party providers;
- The University of Maryland Energy Research Center;
- The Maryland Clean Energy Center; and
- Developers and owners of electricity generation.

Among other issues, the program must study the following:

- The types and viability of different energy storage technologies and cases for their use, including projects deployed in the state and other states;
- Wholesale market factors, including available information from PJM Interconnection, LLC, derived from PJM’s testing and evaluation procedures, and the Federal Energy Regulatory Commission;

- Removal of any policy-related barriers that restrict the ability to capture all of the societal benefits of energy storage;
- Whether and how pumped hydropower should be included in any regulatory policies or market incentives; and
- Policies to incentivize deployment of energy storage systems that are connected to customers' facilities and of systems that are directly connected to transmission and distribution facilities.

The cost of the study may not exceed \$125,000 per fiscal year. A final report with recommendations must be filed by December 1, 2018.

HB 1414 – Study of the Renewable Energy Portfolio Standard

Sponsored by Del. Jameson

Requires the Power Plant Research Program to conduct a study on the renewable energy portfolio standard and related matters. The study must be a comprehensive review of the history, implementation, overall costs and benefits, and effectiveness of the renewable energy portfolio standard in relation to the energy policies of the state.

A final report, including proposals for any alteration of the renewable portfolio standard, alternative mechanisms for furthering the state's energy policies, and related matters, and any proposed legislative or recommended regulatory action, must be presented on or before December 1, 2019.

SB 1158 – Solar Generation Facilities: Pollinator-Friendly Designation

Sponsored by Sen. Middleton

Requires the Power Plant Research Program of the Department of Natural Resources to include in its research an evaluation of the pollinator benefits that would occur under a pollinator-friendly vegetation management standard or pollinator habitat plan implemented on the land on which a proposed or an existing ground-mounted solar generation facility is located.

The Department must adopt a solar site pollinator habitat planning and assessment scorecard that adheres to the following:

- Has been recommended by the University of Maryland Bee Lab;
- May be updated or amended only once every two years; and
- Applies only to solar generation facilities.

According to the bill, the department may designate a solar generation facility as pollinator-friendly if the following conditions are met:

- The solar generation facility is ground-mounted and at is at least one acre in size;
- It meets or exceeds the minimum score identified in the solar site pollinator habitat planning and assessment scorecard; and
- The land on which the solar generation facility is located is planted and managed in accordance with a pollinator-friendly vegetation management standard or pollinator habitat plan by the Power Plant Research Program.

The department may charge the owner of a solar generation facility a reasonable fee to cover costs associated with designating the solar generation facility as pollinator-friendly as well.

Energy Efficiency

HB 406/SB 393 - Clean Cars Act of 2017 *Sponsored by Speaker Busch; Sen. Manno*

Extends the Electric Vehicle Recharging Equipment Rebate Program and authorizes the Maryland Energy Administration (MEA) to issue motor vehicle excise tax credits for certain qualified plug-in electric drive vehicles through 2020.

The bill also increases the total amount of rebates that the MEA may issue each fiscal year from \$600,000 to \$1.2 million.

The MEA may issue a electric vehicle recharging equipment rebate to an individual in an amount equal to the lesser of 40 percent of the costs of acquiring and installing qualified electric vehicle recharging equipment or \$700. Business entities may qualify for 40 percent of the cost up to \$5,000.

A credit is created against the excise tax imposed for a plug-in electric drive vehicle. The credit allowed is either \$100 times the number of kilowatt-hours of battery capacity of the vehicle or \$3,000, whichever is less. This credit is limited to one vehicle per private individual and up to 10 vehicles for business entities.

HB 1002 - Electric Universal Service Program - Unexpended Funds *Sponsored by Del. Davis*

Provides that the Department of Human Resources must expend any unexpended bill assistance and arrearage funds that were collected in fiscal years 2010 through 2017 for one or more of the following purposes:

- Bill assistance and the retirement of arrearages for customers who are eligible to receive assistance at the time services are provided;
- Targeted and enhanced low-income residential weatherization designed to remediate households that are considered ineligible to participate in other state energy efficiency programs due to significant health and safety hazards; or
- An arrearage management program for low-income customers in arrears, including providing credits or matching payments for customers who make timely payments on current bills.

SB 758 - Energy Storage Systems Tax Credit *Sponsored by Sen. Guzzone*

Allows a credit against the state income tax for the total installed costs paid or incurred by a taxpayer that installs an energy storage system and obtains a tax credit certificate from the Maryland Energy Administration.

For the purposes of this bill, an "energy storage system" is a system used to store electrical energy, or mechanical, chemical, or thermal energy that was once electrical energy, for use as electrical energy at a later date or in a process that offsets electricity use at peak times.

The tax credit certificate may not exceed the lesser of the following:

- For an energy storage system installed on a residential property, \$5,000;
- For an energy storage system installed on a commercial property, \$75,000; or
- 30 percent of the total installed costs of the energy storage system.

Natural Gas and Petroleum

HB 1325 Hydraulic Fracturing Prohibition

Sponsored by Del. Fraser-Hidalgo

Prohibits any persons from engaging in the hydraulic fracturing of a well for the exploration or production of oil or natural gas in the state. This bill takes effect on October 1, 2017.

Utilities

HB 514/SB 184 - Energy Efficiency and Conservation Program Savings and Cost-Effectiveness

Sponsored by Del. Jameson; Sen. Middleton

Compels the Public Service Commission to require each electric company to procure or provide specified energy efficiency and conservation programs and services to its electricity customers on a specified savings trajectory for the duration of the 2018-2020 and 2021-2023 program cycles.

The savings trajectory must use approved 2016 plans as a baseline for an incremental increase of a rate of .20 percent per year until the minimum 2.0 percent per year savings rate is achieved.

SB 355 - Environmental Remediation Rate Regulation

Sponsored by Sen. Serafini

Authorizes the Public Service Commission, when determining specified expenses while setting a just and reasonable rate for a gas company, to include all costs reasonably incurred by the gas company for performing environmental remediation of real property in response to a state or federal law, regulation, or order under the condition that "the remediation relates to the contamination of the real property, and the real property is or was used to provide manufactured or natural gas service directly or indirectly to the gas company's customers or the gas company's predecessors."

The legislation states that the commission must balance the interests of a gas company with those of the gas company's customers when setting the recovery schedule for the environmental remediation costs incurred by the gas company.

SB 1040 - Water and Sewer and Solid Waste Management Plan Approval

Sponsored by Sen. Ready

Reduces the number of days from 90 to 60 that the Department of the Environment has to take specified actions on a proposed county plan or a proposed revision or amendment to a water, sewer, and solid waste management county plan.

The measure also reduces the number of days from 90 to 45 for an extension of a review period.

Environmental Legislation

Air Quality and Pollution Control

HB 11 – Prohibiting “Rolling Coal” Discharges

Sponsored by Dels. Lam, Barve, Hill, Ebersole, Lafferty, Pendergrass, Fraser-Hidalgo, Tarlau, Robinson, and Ciliberti

Prohibits a person from causing a diesel-powered motor vehicle to emit clearly visible smoke, soot, or other exhaust emissions onto another person or vehicle.

Colloquially, the action of blowing exhaust onto a bystander or vehicle is known as “rolling coal.”

Coastal Zone Management

HB 211/SB 268 – Cownose Ray Fishery Management Plan and Moratorium on Contest

Sponsored by Del. Robinson; Sen. Young

Requires the Department of Natural Resources to prepare a fishery management plan for the cownose ray species. The bill also prohibits conducting or participation in a cownose ray fishing contest in state waters until July 1, 2019.

HB 384/SB 343 – Expanding Eligible Costs for the Bay Restoration Fund

Sponsored by Del. Adams; Sen. Eckardt

Alters the definition of “eligible costs” as it relates to projects that receive funding from the Bay Restoration Fund to include any wastewater facility upgrade to enhanced nutrient removal, as determined by the Department of the Environment.

HB 924 – Oyster Management: Prohibited Actions

Sponsored by Del. Gilchrist

Prohibits the Department of Natural Resources from reducing or altering the boundaries of specified oyster sanctuaries until the Department develops a fisheries management plan for the scientific management of the oyster stock following completion of a specified study and report that is due on or before December 1, 2018.

SB 158 - Maryland Oil Disaster Containment, Clean-Up, and Contingency Fund License Fee

Sponsored by Sen. Conway

Modifies the basis for calculating a certain license fee credited to the Maryland Oil Disaster Containment, Clean-Up, and Contingency Fund. The license fee is based on the following:

- Before July 1, 2019, a 7.75 cents per barrel fee for oil transferred in the state; and
- On or after July 1, 2019, a 5 cents per barrel fee for oil transferred in the state; and
- Until July 1, 2019, based on an additional 0.25 cent per barrel fee for oil transferred in the state and credited to the Oil Contaminated Site Environmental Cleanup Fund as described in Subtitle 7 of this title.

Emergency Management and Homeland Security

HB 125 - Emergency Action Plans for Dams

Sponsored by Chair, Environment and Transportation Committee

Requires specified dam owners to prepare and submit to the Department of the Environment an emergency action plan that contains specified information by August 1, 2017.

Emergency action plans must contain the following:

- A description of the dam, including its hazard classification;
- Maps or other graphic representations of areas downstream that have the potential to be affected by a structural failure or any other emergency;
- A list of agencies and individuals responsible for monitoring weather and operating conditions at the dam during emergencies;
- Detailed operating procedures for making decisions and taking actions to protect lives and property in areas downstream from the dam in the event of an emergency;
- Procedures for notifying jurisdictions, businesses, and persons who have the potential to be affected by a dam failure or any other emergency;
- A list of emergency management resources and equipment that could be needed in the event of an emergency; and
- Any additional information required by the department.

The bill applies to "any dam that has the potential to cause the loss of human life or substantial property damage in the event of structural failure and has been designated or verified by the department as a high hazard or significant hazard dam under regulations adopted by the department."

Environmental Health Services

HB 126 – Reporting Game Bird or Mammal Possession *Sponsored by Chair, Environment and Transportation Committee*

Adds provisions to existing hunting law that requires a person who harvests a game bird or mammal to report the harvest in accordance with regulations adopted by the Department of Natural Resources. Possession of a game bird or mammal killed by means other than hunting must be reported in accordance with regulations adopted by the department as well.

Inland Water Resource Management and Conservation

HB 1200/SB 964 - Related to Submerged Aquatic Vegetation *Sponsored by Del. Mautz; Sen. Klausmeier*

Requires the Department of Natural Resources, in consultation with interested stakeholders, to review conflicts that arise related to aquaculture and submerged aquatic vegetation, develop specified solutions to these conflicts, and report its findings to the Governor and General Assembly by December 1, 2017.

The measure also allows for the Department of Natural Resources to adopt regulations that establish standards and a process under which the department may assess and evaluate an aquaculture lease on which submerged aquatic vegetation has encroached to determine if aquaculture activity on the lease must be restricted or prohibited due to the circumstances of the encroachment.

Land Management and Conservation

HB 155 – Agricultural Land Preservation Foundation Easement Termination *Sponsored by Chair, Environment and Transportation Committee*

Alters the procedures for terminating an easement purchased by the Maryland Agricultural Land Preservation Foundation.

If an eligible landowner requests that the foundation review an easement for termination, the foundation must request that the governing body of the county containing the land under easement review the easement for termination.

The decision of the county governing body must be provided in writing and may be based on the following conditions:

- The county agricultural preservation advisory board's recommendation to approve or deny the termination request;
- Local comprehensive planning and zoning;
- Local priorities to preserve agricultural land;

- Local patterns of development; and
- Any other land use matters.

HB 557/SB 440 - Sediment Control at Large Redevelopment Sites
Sponsored by Del. Stein; Sen. Conway

Prohibits a county or municipality from issuing a grading or building permit until the developer submits a grading and sediment control plan approved by the Department of the Environment if the property that is the subject of the permit is, or is included in, a large redevelopment site.

A "large redevelopment site" is defined as consisting of one or more contiguous parcels that are collectively more than 500 acres and is being used, or was previously used, for industrial purposes and manufacturing.

HB 617/SB 29 - Forest Conservation Thresholds and Afforestation and Reforestation Requirements
Sponsored by Del. Healey; Sen. Pinsky

Clarifying that units of local government with planning and zoning authority may adopt forest conservation thresholds, afforestation, and reforestation requirements as part of its local forest conservation program that are more stringent than forest conservation thresholds and reforestation requirements in state law.

HB 874 - Air Navigation Protection From Hazards Act of 2017
Sponsored by Del. Cassilly

Establishes an exemption under the Forest Conservation Act for the cutting or clearing of trees to comply with a specified provision of law relating to obstructions to air navigation. If a dispute arises regarding the cutting or clearing of trees, the Maryland Aviation Administration makes the final determination whether the trees should be cut or cleared.

The bill also states that the exemption does not apply to the cutting or clearing of trees to facilitate the expansion or extension of the boundaries of any airport or runway.

HB 1063 - Maryland Healthy Soils Program Establishment
Sponsored by Del. Stein

Establishes the Maryland Healthy Soils Program, which is meant to increase biological activity and carbon sequestration in the state's soils by promoting practices based on emerging soil science.

The legislation requires the Department of Agriculture to provide incentives, including research, education, technical assistance, and financial assistance, to farmers in order to implement farm management practices that contribute to healthy soils.

SB 108 - Erosion Control Measures
Sponsored by Sen. Simonaire

Requires that specified erosion control measures that qualify for a specified property tax credit authorized against the county or municipal corporation property tax meet specified shoreline stabilization standards, except when concerning implementation of a measure required to change drainage patterns.

SB 975 Agricultural Land Preservation Easements: Separate Parcels

Sponsored by Sen. Ready

Establishes that, unless a deed expressly provides otherwise, the grant of an agricultural land preservation easement governing two or more separate parcels of land owned by the same grantor under separate deeds or two or more parcels separately identified and described in the same deed does not consolidate the parcels.

Solid Waste

HB 124 - Regulating Solid Waste and Recycling Facilities

Sponsored by the Chair, Environment and Transportation Committee

Requires the Department of the Environment to adopt certain regulations relating to recycling facilities.

The department is compelled to adopt regulations that accomplish the following:

- Establish conditions under which a recycling facility does not require a refuse disposal permit; and
- Exempt certain materials that are managed at a recycling facility from being designated as solid waste.

Implementing the above regulations may include:

- The design, construction, and operational conditions for recycling facilities to protect public health and the environment and minimize nuisances;
- A tiered system of permits or approvals for recycling facilities based on the quantity of material managed, the methods of management and storage, and other factors determined by the department to be appropriate; and
- Exceptions to any requirement to obtain a recycling facility permit or approval.

HB 171/SB 99 - Studying Yard Waste, Food Residuals, and Other Organic Materials

Sponsored by Del. Robinson; Sen. Middleton

Requires the Department of the Environment to study, review, explore, identify, and make recommendations regarding specified matters that relate to the diversion of yard waste, food residuals, and other organic materials from refuse disposal facilities.

The department must explore ways to promote composting of yard waste and food residuals and other methods of organic waste reduction and diversion, including ways to encourage a decentralized and diverse infrastructure and the prevention of organic waste generation. The department must produce and present a final report to the General Assembly by July 1, 2019.

SB 1040 - Water and Sewer and Solid Waste Management Plan Approval

Sponsored by Sen. Ready

Reduces the number of days from 90 to 60 that the Department of the Environment has to take specified actions on a proposed county plan or a proposed revision or amendment to a water, sewer, and solid waste management county plan.

The measure also reduces the number of days from 90 to 45 for an extension of a review period.

Water Quality and Pollution Control

HB 270 - Testing for Lead in Drinking Water - Public and Nonpublic Schools

Sponsored by Del. Lafferty

Requires that the Department of the Environment, in consultation with the State Department of Education, the Department of General Services, and Maryland Occupational Safety and Health, to adopt regulations requiring periodic testing for the presence of lead in each drinking water outlet located in an occupied public or nonpublic school building.

If elevated lead samples are found, access to that water outlet must be closed, an adequate supply of safe drinking water must be provided to the school, and remedial action must be taken.

HB 417/SB 314 - Clean Water Commerce Act of 2017

Sponsored by Speaker Busch; President Miller

Authorizes funds in the Bay Restoration Fund to be used for the costs associated with the purchase of certain nutrient credits load reductions.

This bill allows for the Bay Restoration Fund to cover 100 percent of the eligible costs related to the planning, design, construction, and upgrade of a wastewater facility for flows up to the design capacity of the wastewater facility to achieve enhanced nutrient removal.

This act went into effect on July 1, 2017, and will remain in effect for four years.



MISSISSIPPI

“ Mississippi adopted 9 energy and environmental bills during the 2017 legislative session. Notably, HB 999 establishes the Enterprise Security Program providing for the coordinated oversight of the cybersecurity efforts across all state agencies. SB 2402 provides that the Division of Energy of the Mississippi Development Authority must evaluate and approve projects related to energy services providers through a prequalification process. A vessel in possession of the manufacturer, builder, or converter used for the exploration for, or production of, oil, gas, and other minerals offshore is hereby exempted from ad valorem taxation under SB 3021. ”

Energy Legislation

Alternative Energy Development

SCR 626 – Commending Entergy

Sponsored by Sens. Butler, Burton, Dearing, and Frazier

Recognizes and commends Entergy’s Grand Gulf Nuclear station on its recent license extension.

Emergency Management and Homeland Security

HB 999 – Creating the Enterprise Security Program

Sponsored by Reps. DeLano, Staples, and Sykes

Establishes the Enterprise Security Program providing for the coordinated oversight of the cybersecurity efforts across all state agencies.

The bill requires the Mississippi Department of Information Technology Services (MDITS) to provide centralized management and coordination of state policies for the security of data and information technology resources.

MDITS must adhere to the following provisions, among others, in implementing the Enterprise Security Program:

- Serve as sole authority, within the constraints of this statute, for defining the specific enterprise cybersecurity systems and services to which this statute is applicable;
- Acquire and operate enterprise technology solutions to provide services to state agencies when it is determined that such operation will improve the cybersecurity posture in the function of any agency, institution, or function of state government as a whole;
- Provide oversight of enterprise security policies for state data and information technology (IT) resources;
- Adhere to all policies, standards, and guidelines in the management of technology infrastructure supporting the state data centers, telecommunications networks, and backup facilities;
- Develop policies, procedures, and long-range plans for the use of enterprise cybersecurity systems and services;
- Form an advisory council of information security officers from each state agency to plan, develop, and implement cybersecurity initiatives; and
- Coordinate the activities of the advisory council to provide education and awareness, identify cybersecurity-related issues, set future direction for cybersecurity plans and policy, and provide a forum for interagency communications regarding cybersecurity.

In accordance with the bill, each state agency’s executive director or agency head must develop, implement, and maintain written agency policies and procedures to ensure the security of data and IT resources. The

agency policies and procedures are confidential information and exempt from public inspection, except when the information must be made available to the Office of the State Auditor in performing auditing duties.

Natural Gas and Petroleum

HB 883 - Natural Gas Utility Economic Development

Sponsored by Reps. DeLano, Staples, and Sykes

Modifies existing law on electric utilities to give public natural gas utilities the same ability to undertake direct or indirect economic development activities including the following:

- Providing capital, investment in, or acquisition and development of business or industrial sites and the necessary infrastructure or services needed to attract new or existing businesses or industry;
- Creating or maintaining employment opportunities; or
- Otherwise positively impacting, or in some manner promoting, the sale of natural gas within its certificated service area.

SB 3021 - Exempting Certain Vessels and Expansions from Specified Taxation

Sponsored by Sen. Watson

Exempts from ad valorem taxation a vessel in possession of the manufacturer, builder, or converter used for the exploration for, or production of, oil, gas, and other minerals offshore outside the boundaries of the state and vessels that were used for the exploration for, or production of, oil, gas, and other minerals that are converted to a new service for use outside the boundaries of the state. This exemption may not be applied for longer than three years unless action is taken by local governing bodies.

The bill also exempts from ad valorem taxation the sales of component materials used in the construction of a building, or any expansion or improvement thereon, sales of machinery and/or equipment to be used therein, and sales of processing machinery and equipment which is permanently attached to the ground or to a permanent foundation which is not by its nature intended to be housed in a building structure, no later than three months after initial startup, expansion, or improvement of a permanent enterprise solely engaged in the conversion of natural sand into proppants used in oil and gas exploration and development with at least 95 percent of such proppants used in the production of oil and/or gas from horizontally drilled wells and/or horizontally-drilled recompletion wells.

The measure also exempts from sales taxation the sales of electricity, current, power, steam, coal, natural gas, liquefied petroleum gas, or other fuel to a permanent enterprise that is eligible for such exemption upon completion of an expansion. The exemption is based on if the expansion will create at least 85 full-time jobs in the state with an average annual wage of at least \$60,000 and there exists at least \$80 million in new investment at the existing facility.

Utilities

SB 2402 Prequalification Process for Energy Services Providers *Sponsored by Sen. Fillingane*

Provides that the Division of Energy of the Mississippi Development Authority must evaluate and approve projects related to energy services providers through a prequalification process.

The criteria for evaluation must include, but is not limited to, the following factors:

- Assessing the capability of the qualified energy services provider in the area of design engineering, installation, maintenance, and repairs associated with energy services or guaranteed energy performance contracts;
- Qualifications including engineering depth and experience, post-installation project monitoring, data collection, and verification of and reporting of savings;
- Overall project experience and qualifications;
- Management capability;
- Ability to access long-term sources of project financing;
- Financial health and stability; and
- Litigation history with customers and other factors determined by the division to be relevant and appropriate and related to the ability to perform the project.

The bill also requires that entities entering into an energy performance contract or shared-savings contract biannually report to the division its energy usage by meter in dollars and consumption by fuel type for the previous six-month period.

Environmental Legislation

Coastal Zone Management

SB 2683 – Shrimp Season Modifications *Sponsored by Sen. Gollott*

Modifies existing law so that the shrimp season is closed south of the Intracoastal Waterway and west of the Gulfport Ship Channel from May 1 until it is opened the first Wednesday of June.

Environmental Health Services

HB 469 – Modifying Fire Protection District Rules

Sponsored by Reps. Touchstone, Morgan, Hale, Sykes, Barnett, Dixon, Steverson, and Monsour

Authorizes a county Board of Supervisors to dissolve, redefine, or reconfigure fire protection districts to “ensure the most appropriate and efficient fire protection coverage for the county’s citizens.”

HB 1585 – Localizing Fees for Flood and Drainage Control

Sponsored by Reps. Powell, Baker, Gipson, Moore, Rogers, Weathersby, Dixon, Gibbs, Holloway, Miles, Bell, and Sykes

Establishes that a Board of Directors undertaking a flood and drainage control improvement project that the board determines will benefit only a portion of the district may levy a special improvement assessment that applies only to property in the district directly or indirectly benefited by the project to provide funds for the payment of costs related to the flood and drainage control improvement project.

Prior to levying an assessment, the Board of Directors must make a determination that the necessary approvals and authorizations are in place and that project-related activities are ready to commence.

Solid Waste

HB 1149 – Assessing Late Fees on Delinquent Garbage Collection Bills

Sponsored by Reps. Huddleston, Aguirre, Beckett, Bell, Boyd, Holland, Mangold, Massengill, Rogers, Sullivan, and Turner

Authorizes any County Board of Supervisors to assess and collect an additional amount not to exceed one dollar or 10 percent, whichever is greater, on the current monthly balance of delinquent monthly fees for garbage collection or disposal.



MISSOURI

“ Missouri adopted four energy and environmental bills during the 2017 legislative session. Specifically, HB 662 deals with herbicide misuse and authorizes the Department of Agriculture, if it determines that any person has knowingly used a herbicide for a crop for which the herbicide was not labeled for use, to assess a civil penalty of up to \$10,000 per violation. If a person is a chronic violator, the department has the authority to assess a civil penalty of up to \$25,000 per violation. The legislature also established weight limits for natural gas-powered vehicles with SB 225. ”

Energy Legislation

Natural Gas and Petroleum

SB 225 – Weight Limits for Vehicles Powered by Natural Gas

Sponsored by Sen. Schatz and Rep. Davis

Prescribes separate weight limits for vehicles powered by natural gas. Specifically, in no event may the maximum gross vehicle weight of the vehicle operating with a natural gas engine exceed 82,000 pounds.

Utilities

HCS HB 1 – Special Utility Rates for Aluminum Smelting and Steel Works Facilities

Sponsored by Rep. Rone

Gives the Public Service Commission authority to approve special utility rates for an aluminum smelting facility or a steel works facility under certain circumstances.

An electrical corporation approved to provide electrical service to a facility may do so under a rate schedule or under a contract reflecting the specially approved rate. The electrical corporation serving the facility, or the facility if it is located outside of the electrical corporation's certified service territory, must apply to the commission to receive the special rate. Any approved special rate must be effective for no longer than 10 years. The commission may impose appropriate conditions on the special rate including, but not limited to, any conditions contained in a memorandum of understanding between the electrical corporation and the facility. Any entity that has been granted a special rate may reapply to the commission.

Environmental Legislation

Environmental Health Services

HB 662 – Misuse of Herbicides

Sponsored by Rep. Rone

Authorizes the Department of Agriculture, if it determines that any person has knowingly used a herbicide for a crop for which the herbicide was not labeled for use, to assess a civil penalty of up to \$10,000 per violation. If a person is a chronic violator, the department has the authority to assess a civil penalty of up to \$25,000 per violation.

Any person who is penalized will be liable to the department for any reasonable costs associated with the department's investigation. Any penalty collected will be remitted to the school district in which the violation occurred. The department, after inquiry and opportunity for a hearing, may deny, suspend, revoke, or modify the provisions of any license, permit, or certification issued under the Missouri Pesticides Use Act.

Reorganization and Coordination

HR 12 - Confirming EPA Administrator
Sponsored by Rep. Fitzwater

Urges the United States Senate to confirm Scott Pruitt as Administrator of the U.S. Environmental Protection Agency.



NORTH CAROLINA

“ North Carolina adopted 15 energy and environmental bills during the 2017 legislative session. Notably, SB 131 enacted a wide range of new regulations spread over several categories with the intent to reform North Carolina’s approach to the integration of renewable electricity generation through amendment of laws related to energy policy and to enact the distributed resources access act. HB 589 amends various laws related to energy policy, including reform of the state implementation of The Public Utilities Regulatory Policy Act of 1978 (PURPA), the creation of a competitive bidding process for new renewable energy facilities, and the enactment of the Distributed Resources Access Act to authorize leasing of third-party owned solar development; it awaits the Governor’s signature. At the time of pressing, the General Assembly has not concluded their 2017 legislative session. This section contains legislation that was ratified on or before July 1, 2017. ”

Energy Legislation

Alternative Energy Development

HB 589 – Competitive Energy Solutions for North Carolina

Sponsored by Reps. Szoka, Arp, and Watford

Amends various laws related to energy policy, including reform of the state implementation of The Public Utilities Regulatory Policy Act of 1978 (PURPA), the creation of a competitive bidding process for new renewable energy facilities, and the enactment of the Distributed Resources Access Act to authorize leasing of third-party owned solar development.

The bill aligns the definition of small power producer in state law with the federal definition of a small power production facility. A small power production facility is a generating facility of 80 megawatts (MW) or less whose primary energy source is renewable, biomass, waste, or geothermal resources.

The measure requires utilities to offer standard contracts to small power production facilities for up to 10-year terms for facilities that have a capacity up to one MW. The standard contract for one MW facilities is capped to a total aggregate of 100 MW per public utility. Once the 100 MW cap is reached, the standard contract minimum capacity threshold is reduced from one MW to 100 kilowatts (kW). For small power producers over one MW, or 100 kW once the 100 MW cap is reached, the rates will be negotiated between the small power producer and the utility for a fixed five-year term. Swine and poultry waste, small hydropower, and biogas facilities may negotiate for a term beyond five years.

The bill also requires that capacity payments be made only when capacity is needed by the utility based on need for that resource as established by the utility's required integrated resource plan. The limitation on capacity payments does not apply to swine and poultry waste for which a need is established by the renewable energy portfolio standards.

Further, the bill provides for a grandfathering of small power production facilities that are currently eligible for the avoided cost rates in North Carolina's Commission Docket E-100, Sub 140. Facilities currently eligible for those rates must be placed into service by September 10, 2018.

Under this act, the utility is given the option not to interconnect a solar facility to its distribution system with a nameplate capacity of 10 MW or greater that had not executed an interconnection agreement prior to July 1, 2017, and may require such facility to interconnect to the utility's transmission system.

This act also creates a competitive procurement of new renewable energy facilities by requiring electric public utilities with more than 150,000 customers to issue a request for proposals (RFP). The RFP must be issued over a 45-month term for a total procurement of 2,200 MW of capacity from renewable energy facilities.

The bill provides the following limitations on the procurement of renewable energy resources:

- The total amount of energy in the competitive procurement is adjusted up or down by any amount in which the public utility's renewable energy procurement outside of the competitive procurement and the green source rider program is more or less than 3,500 MW.
- The cost of the energy procured is capped at the forecasted avoided cost for the term of the agreement.

- The utility is required to release a pro forma contract prior to the solicitation for bids on a renewable energy project. The pro forma contract establishes terms and conditions for resource dispatch and curtailment. The compensation terms in the case of curtailment is limited to the fair market value of the energy at the time of curtailment. The pro forma contract is established for a term of 20 years; that term, however, may be adjusted at the discretion of the North Carolina Utilities Commission.
- The public utility is allowed to participate as a developer of renewable energy facilities but is limited to a maximum of 30 percent of the procurement amount.

The utility has the authority to determine the location and allocated amounts of renewable energy resource projects within its service area. It also provides the rights to dispatch, operate, and control third-party operated renewable energy facilities as it does its own generating facilities. The competitive bidding process will be overseen by an independent administrator required to publish the methodology used to choose the projects. The public utility must disclose any non-publicly available information concerning its own system in preparing its bid to other bidders.

The costs to procure energy in the competitive procurement are eligible to be recovered through an annual rider. The annual recoverable costs, however, are not allowed to exceed one percent of total revenues of the utility in the state for the prior calendar year. The commission is required to adopt rules to provide oversight of the competitive procurement program and to establish a procedure to modify or delay the competitive procurement program if it determines it is in the public interest to do so. The commission is required to adopt rules to accomplish the following:

- Provide for a waiver of regulatory conditions or code of conduct requirements that unreasonably restricts a public utility or its affiliates from participating in the competitive procurement process, unless the commission finds that such a waiver does not hold the public utility's customers harmless.
- Establish a procedure for expedited review and approval of certificates of public convenience and necessity for renewable energy facilities owned by the public utility.
- Establish a methodology to allow an electric public utility to recover its costs pursuant to the annual rider created in this section.

The bill makes a conforming change to Chapter 62 to exempt power purchase agreements entered into pursuant to the competitive procurement from commission filing and approval requirements. Utilities must file the competitive procurement program with the commission within 120 days of the effective date and the commission must issue an order to approve, modify, or deny the program within 90 days of the filing.

The measure provides for a new renewable energy procurement program for large energy users, the military, and the University of North Carolina (UNC) system. Large energy users are defined as those with a contract demand for one MW or more, or 5 MW or more at multiple service locations when combined in aggregate. The public utility must file for commission approval of the new program within 180 days of the effective date of this bill. The legislation provides for standard contract terms and conditions that allows the customer to choose the renewable energy facility and for a term ranging from 2 to 20 years. The customer program participants are limited to contract for 125 percent of their maximum annual peak demand. The program participants are required to establish reasonable financial assurance requirements; however, the military and UNC are exempt from those requirements. The program expires in five years or on December 31, 2022, whichever is later.

The program has a cap of 600 MW of total capacity, with 100 MW set aside for the military and 250 MW set aside for UNC. If the set-asides are not used by December 31, 2020, or three years after the start of the program, whichever is later, the capacity can be used by any eligible program participant. If any capacity is not contracted for by the expiration of the program, it rolls over into the competitive procurement program. Under the program, the utility pays the contract price to the renewable energy developer. The avoided cost portion of the contract price is collected via the fuel clause. The program participant will receive a bill credit as determined by the commission but not to exceed the utility's avoided cost. In determining the bill credit, the commission ensures that all other customers are held harmless from the impact of the renewable electricity procured on behalf of the program customer.

Further, the measure enables the public utility to recover the cost of PURPA qualifying facilities purchased power and the non-administrative costs of the green source rider program through the existing fuel clause rider. Those costs are added to the annual cap on cost increases for other parts of the fuel clause rider, and the cap is raised on those costs from 2 percent to 2.5 percent of total revenues of the utility for the prior calendar year.

In many states, the development of residential and commercial rooftop and on-site solar facilities involves third party financing options such as power purchase agreements (PPA) and leasing arrangements with third party solar developers. Under a PPA, the customer agrees to purchase all the energy produced by the system. With a leasing arrangement, the customer agrees to pay a fixed monthly fee to the third-party for the equipment that is not directly based on the amount of on-site electricity generation. Under either financing model, any excess generation not used on-site is typically subject to a net metering arrangement between the customer and the utility.

This legislation enacts the Distributed Resources Access Act allowing third parties to offer leasing of solar energy facilities in the service area of an offering utility or a municipality offers electric service and to create a community solar energy program to be implemented by the offering utility. The offering utility is any electric public utility serving at least 150,000 North Carolina retail jurisdictional customers as of January 1, 2017, but it does not include any other electric public utility, electric membership corporation, or municipal electric supplier.

The bill allows retail electric customers of an offering utility to enter into contracts with solar developers or the electric public utility for the lease of eligible solar facilities. The solar energy facility must meet the following requirements to be eligible:

- Generates electricity from a solar photovoltaic system;
- Limited to a capacity of 1MW or 100 percent of contract demand for nonresidential customers and 20 kW or 100 percent of estimated demand for residential customers;
- Located on the premises of the customer being served;
- Interconnected with the public utility;
- Intended to offset no more than 100 percent of the customer's own consumption; and
- Meets all applicable safety, performance, interconnection, and reliability standards.

The total installed capacity of all leased solar energy facilities on an offering utility's system is capped at one percent of the previous five-year average of the North Carolina retail contribution to the offering utility's coincident retail peak demand.

The measure requires the electric public utility to file a docket with the commission for revised net metering rates. The rates will be established after an investigation of the costs and benefits of customer-sited generation. The commission is directed to establish rates that ensure net metering customers pay their full fixed cost of service and the rates may include fixed monthly charges. Retail customers that own their own renewable energy system and are on an approved net metering rate, prior to the approval of the revised net metering rates, are grandfathered in at the rate at the time of interconnection until January 1, 2027.

The bill requires the lease agreement provided by a lessor, including the utility or a third-party developer, to comply with the following requirements:

- Be signed and dated and in at least 12 point font;
- Include the right to rescind the agreement for three business days;
- Provide a description of the solar energy facility;
- List the cost, fees, payments, interest, etc. over the life of the agreement;
- Identify state and federal tax incentives that are included in the lease payments;
- Provide a disclosure if a transfer of the lease is subject to any restrictions;
- Provide a disclosure if a transfer of ownership of the real property to which the solar energy facility is affixed is subject to any restrictions;
- Provide a summary of total costs for maintaining and operating the solar energy facility;
- If the agreement contains an estimate of the customer's future utility charges, provide an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent annual decrease to at least a five percent annual increase from current utility costs; and
- Provide a standard disclaimer that utility rates and tax incentives are subject to change.

The legislation further requires that if the maintenance or warranty for the solar energy facility is transferred, the person who is currently obligated to maintain or warrant the solar energy facility must disclose the contact information of the person who will be assuming the maintenance or warranty obligations of the solar energy facility.

With regard to marketing materials, the bill establishes that if those materials contain an estimate of the customer's future utility charges, it must provide an estimate of the retail electric customer's estimated utility charges during the same period as impacted by potential utility rate changes ranging from at least a five percent annual decrease to at least a five percent annual increase from current utility costs.

The measure requires lessors to obtain a certificate from the commission before beginning operations. To be certified, an applicant must comply with the following requirements:

- Register each solar energy facility that the applicant leases to a customer;
- Certify that each lease of a solar energy facility that the applicant offers or accepts will comply with the requirements established by the act;

- Consent to the auditing of its books and records by the public staff; and
- Conduct its business in compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources, the provision of electric service, and the protection of consumers.

A civil penalty of up to \$10,000 is created for any person operating in violation of the terms of the act or engaging in unfair or deceptive practices in the leasing of solar energy facilities.

The bill establishes that the development of a community solar program requires the offering utilities to file a program with the commission to construct up to 20 MW of solar facilities per public utility that allows customers to participate by buying subscriptions for a certain amount of output of the electricity produced by the facility. Each community solar energy facility is required to offset the electric needs of at least five subscribers and no single subscriber is allowed to subscribe to more than 40 percent of the output of the facility. The facility is limited to 5 MW in size and each subscription represents at least 200 watts of generating capacity and no more than 100 percent of the maximum annual peak demand of electricity at the subscriber's premises.

The program is capped at 20 MW per public utility, for a total of 40 MW between Duke Energy Carolinas and Duke Energy Progress. Subscribers to the program are required to be in the same county or a county contiguous to the facility. If the subscriber does not meet the location requirements, the commission may approve requests from the electric public utility to allow a subscriber to be up to 75 miles from the facility. Subscribers to the facility will receive a bill credit at the utility's avoided cost rate. The public utility is required to file for commission approval of the program within 180 days of the effective date of the section. The commission may approve, disapprove, or modify the design of the community solar energy program submitted by the utility to ensure that customers who do not subscribe to a community solar energy facility are held harmless, among other requirements.

The bill also establishes that a municipality selling electric power to retail customers may offer leases to solar energy facilities located within the municipality's service territory at the election of its governing council or commission. It prohibits the costs a municipality incurs in marketing, installing, owning, or maintaining leases through its own leasing programs as a lessor to be recovered from other nonparticipating municipality retail customers through rates.

If the municipality offers a leasing program, a third party lessor may lease a solar energy facility within the municipality's service territory if they have received a certificate issued by the commission and comply with terms and conditions approved by the municipality. The commission's net metering rates do not apply in the municipality's service territory. The municipality's governing council or commission must adopt any net metering tariffs offered in a leasing arrangement.

Another provision of the measure makes a conforming change to provide that lessors of solar energy facilities are not regulated public utilities under Chapter 62 of the General Statutes.

Further, the legislation exempts leased solar energy facilities from the certification requirements of public necessity and convenience under Chapter 62, and it requires the exempt facilities to report the proposed construction and completion of the facility to the commission and the interconnecting public utility.

This measure also creates a solar rebate program to provide incentives to customers that install or lease solar energy facilities and are subject to the public utility's net metering tariff. The incentives are limited to residential facilities producing 10 kW alternating current and nonresidential facilities producing 100 kW alternating current. The program must meet the following requirements:

- Limited to 10 MW annually of total installed capacity over five years from 2018 through 2022.
- Nonresidential installations must not exceed half of the capacity of the program, which is 5 MW.
- 2.5 MW must be set aside for nonresidential installations by non-profits, with 50 kW set aside for NC Greenpower Solar Schools Pilot or a similar program.
- Any set-asides or any portion of the incentives that goes unsubscribed will rollover to subsequent years.

The legislation also establishes a pilot program in the Department of Public Safety to enroll in a demand-side management program rate or tariff with the public utility if available. The program allows load to be curtailed or shifted onto the generator when called upon for energy efficiency or emergency purposes and qualifies the agency to enroll in a potentially cost saving rate or tariff. The department is required to report on the pilot program to the Joint Legislative Commission on Energy Policy by January 31 of each year, and the program expires on January 1, 2020.

The bill creates a \$250 fee for an application for a certificate of authority to engage in business as an electric generator lessor or each registration statement for a renewable energy facility or new renewable energy facility. It also establishes a \$50 fee for the processing of Reports of Proposed Construction that are required to be filed with the commission for facilities exempt from the requirement to obtain a certificate of public convenience and necessity.

The legislation establishes a moratorium on the consideration of applications and on the issuance of permits for wind energy facilities and wind energy expansions in the state from January 1, 2017, to December 31, 2020. The moratorium does not apply to:

- Facilities that received a "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration on or before May 17, 2013; or
- Applicants whose completed application was submitted on or before January 1, 2017.

The bill also directs the General Assembly to study the extent and scope of military operations in the state in order to create maps and data to be used to communicate the temporal and spatial use of land-, air-, and water-based military operations and identify areas where energy infrastructure and development pose a threat to, encroaches upon, or otherwise reduces operations, training capabilities, or readiness. The following timeline is provided for the study:

- The Legislative Services Officer is required to issue an RFP for collection of data and creation of maps by December 31, 2017;
- A contract must be executed by June 30, 2018; and
- The study, including maps and data, and findings and recommendations, must to be submitted on or before June 30, 2019.

The bill authorizes the North Carolina Utilities Commission and the Public Staff of the Utilities Commission each to create two positions funded from receipts of the commission in order to meet requirements imposed by the act.

Energy Efficiency

SB 131 - Regulatory Reform Act of 2016-2017
Sponsored by Sens. Wells, Cook, and Sanderson

Amends several state laws related to business regulation, state and local government regulation, and agricultural, energy, environmental, and natural resources regulation.

The act requires the Building Code Council to exempt the following use and occupancy classifications from the requirements of the Energy Conservation Code: Factory Group F, Storage Group S, Utility, and Miscellaneous Group U.

Utilities

HB 637 - Clarifying Regional Water and Sewer Funds
Sponsored by Reps. Hall, Bert Jones, Blust, and Hardister

Allows for the funds appropriated by the 2016 Appropriations Act to be used for related water system modifications and expansion in addition to interconnection and extension of water lines. Use of the funds is limited to water and sewer projects in Guilford and Rockingham Counties and the following municipalities within those counties: Oak Ridge, Stokesdale, Summerfield, Reidsville, Madison, and Mayodan.

The law allows the funds to be used in an agreement by the counties and municipalities specified by any combination of interlocal agreements or one or more regional water and sewer authorities. Of the funds appropriated, 25 percent is allocated to Guilford County and its municipalities and 75 percent is allocated to Rockingham County and its municipalities.

The statute establishes that the funds must be held in reserve by the Office of State Budget and Management and the appropriation must be released when interlocal agreements are reached or upon the formation of regional water and sewer authorities. The funds not used by June 30, 2020, revert to the General Fund.

HB 764 - Amending the Laws Governing Expansion of Metropolitan Sewerage Districts
Sponsored by Rep. McGrady

Allows a political subdivision to request inclusion into the metropolitan sewerage district of all, or part of, the political subdivision, rather than all. When new territory is expanded into a metropolitan sewerage district, any county without representation on the district board must be represented by three additional board members from among the qualified voters residing in the new territory appointed by the county board of commissioners governing the new territory.

SB 131 - Regulatory Reform Act of 2016-2017
Sponsored by Sens. Wells, Cook, and Sanderson

Exempts a public water supply system from the Daily Flow Requirements, provided the flow rates that are less than those required by the rule are achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of North Carolina's General Statutes and provides for a flow that is sufficient to sustain the water usage required in the engineering design.

Environmental Legislation

Air Quality and Pollution Control

SB 131 - Regulatory Reform Act of 2016-2017

Sponsored by Sens. Wells, Cook, and Sanderson

Removes the following counties from the list of counties in which motor vehicle emissions inspections are required: Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Edgecombe, Granville, Harnett, Haywood, Henderson, Lenoir, Moore, Nash, Orange, Pitt, Robeson, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes, and Wilson.

Also amended is the model year threshold for motor vehicles subject to emissions inspections from 1996 to the model year within 20 years of the current year. The Department of Environmental Quality (DEQ) is required to prepare and submit a revised State Implementation Plan based on the removal of counties from the emissions inspection program to the United States Environmental Protection Agency (EPA) by September 30, 2017. The removal of counties from the emissions inspection program becomes effective on the later of October 1, 2017, or the first day of a month that is 60 days after DEQ certifies to the Revisor of Statutes that EPA has approved the revised State Implementation Plan.

Coastal Zone Management

SB 131 - Regulatory Reform Act of 2016-2017

Sponsored by Sens. Wells, Cook, and Sanderson

Repeals the statute that originally required coastal counties to develop a land-use plan or directed the Coastal Resources Commission (CRC) to prepare and adopt a land-use plan for a county that failed to do so. The law also directs the Division of Coastal Management in the Department of Environmental Quality, in consultation with the CRC, to study whether the long-term erosion rates should be modified in and around newly constructed terminal groins. Long-term erosion rates are evaluated by the division about every five years and are used to determine setbacks for oceanfront development.

SB 410 - Marine Aquaculture Development Act

Sponsored by Sens. Cook, Sanderson, Tillman, and Rabin

Amends several marine fisheries and coastal management laws and establishes definitions as follows:

- Marine Aquaculture - the propagation and rearing of marine aquatic species in controlled or selected environments, including, but not limited to, ocean ranching, marine hatcheries, and other deep water fish farming operations in the coastal fishing waters of the state and, to the extent not inconsistent with federal law, to the limits of the United States exclusive economic zone.
- Marine aquaculture lease - a lease of the public bottom and superadjacent water column granted by the Secretary of the Department of Environmental Quality for marine aquaculture.
- Marine aquatic species - any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant found exclusively or for part of its life cycle in coastal fishing

waters.

This bill authorizes the Secretary of Environmental Quality to grant marine aquaculture leases as follows:

- The area leased must meet certain criteria in order to be suitable for leasing;
- Leases are capped at 100 acres per lease and no person, corporation, or single family may lease or purchase more than 1,500 acres total;
- Leases are issued for a period for 20 years;
- Leases are subject to the following fees:
 - Initial lease application filing fee - \$200.00;
 - Renewal lease application filing fee - \$100.00; and
 - Lease rental fee - \$210.00 per acre, per year.
- The secretary must terminate a lease under certain circumstances; and
- It is unlawful for any person, other than the holder of the marine aquaculture operation lease, to take species produced from the operation without the written authorization of the lease holder and with actual knowledge it is a leased area. Violation of this provision is a Class A1 misdemeanor, which could include a fine of up to \$5,000.

The Division of Marine Fisheries (DMF) of the Department of Environmental Quality is directed by the legislation to:

- Request that the Mid-Atlantic and South Atlantic Fishery Management Councils develop a Fishery Management Plan for regulating offshore aquaculture in federal waters offshore from the North Carolina coast; and
- Petition the National Oceanic and Atmospheric Administration to initiate rule making proceedings to implement a comprehensive regulatory program for managing the development of an environmentally sound and economically sustainable aquaculture fishery in federal waters offshore from the North Carolina coast.

The measure also directs DMF to provide an interim report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than February 1, 2018, regarding its progress in implementing this section and a final report on or before May 1, 2018, that includes the request and petition required by the act.

The Marine Fisheries Commission is directed to establish official e-mail accounts for all commission members as follows:

- Commission members are required to use the official e-mail accounts for all electronic communications related to the work of the commission;
- Such communications are considered public records, unless protected by any common law or statutory privilege;

- If made among a majority of members of the commission, such communications are an official meeting for purposes of the open meetings law, except if the communication is a routine communication sent from division staff to all commission members; and
- Failure to comply with these requirements subjects a member to investigation by the State Ethics Commission for unethical conduct and to removal from the commission for misfeasance.

The measure also establishes that the use of American eels imported from Virginia or South Carolina in an aquaculture operation is exempt from the permitting requirements of the Marine Fisheries Commission rule that regulates the importation of marine organisms into the state. The rules indicate, in part, that in order to protect the marine and estuarine resources of North Carolina from unacceptable risks from predators, pests, parasites, and disease, it is unlawful, without first obtaining a permit from the Fisheries Director or without obtaining live marine and estuarine organisms from a permit holder, to do the following:

- Place into the coastal fishing waters of the state live marine and estuarine organisms not native to the state;
- Place into the coastal fishing waters of the state live marine and estuarine organisms which are native but which originated outside the state's boundaries;
- Hold or maintain any live marine or estuarine organism imported into the state in a quarantine or isolation system for live bait or use in an aquaculture operation; or
- Sell for bait any live marine or estuarine organism imported into the state.

The Division of Water Resources of the Department of Environmental Quality and the State Property Office is authorized by this act to negotiate an agreement with appropriate agencies of the federal government for the state to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government.

The new marine aquaculture leasing program becomes effective October 1, 2017. The remainder of the bill takes effect when the act becomes law.

Inland Water Resource Management and Conservation

SB 107 - Streamlining Dam Removal

Sponsored by Sens. Wells, Gunn, Jackson, and Woodard

Exempts professionally supervised dam removals from the requirement that dam removal be approved by the Department of Environmental Quality (DEQ). A professionally supervised dam removal is the removal of a low- or intermediate-hazard mill dam or run-of-river dam that is not operated primarily for flood control or hydroelectric power generation purposes and the removal of which is designed and supervised by an engineer licensed under North Carolina law and complies with all of the following:

- The engineer determines that the removal of the dam can be accomplished safely and certifies that the dam is a low or intermediate hazard dam;

- The person proposing the removal of the dam notifies the director of the Division of Energy, Mineral, and Land Resources in DEQ no less than 60 days prior to removal; and
- The person proposing the removal of the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety (DPS), the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the dam removal no less than 60 days prior to removal.

Except as required by federal law, DEQ will not require mitigation for impacts associated with the removal of a dam that is done in compliance with state law. DEQ must develop a water quality certification that allows for short-term sediment releases associated with a professionally supervised dam removal if the sediment to be released has similar or lower levels of contamination than the sediment downstream of the dam.

The measure directs the DEQ and DPS to jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce the regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. The departments will jointly report the results of the study to the Environmental Review Commission no later than March 1, 2020.

SB 131 - Regulatory Reform Act of 2016-2017
Sponsored by Sens. Wells, Cook, and Sanderson

Exempts landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not be compacted by the weight of a vehicle, from the definition of built-upon area for purposes of implementing stormwater programs. The law also allows the owner or developer of property to opt out of any of the exemptions from built-upon area.

A statutory 300 linear foot threshold is established by this act for mitigation of losses of stream bed and the Environmental Management Commission is directed to amend its rules accordingly. The bill directs the cochairs of the Environmental Review Commission (ERC) to examine the mitigation thresholds for losses of stream bed adopted by the Norfolk, Charleston, and Savannah Districts of the U.S. Army Corps of Engineers (Corps). The ERC cochairs must submit written comments to the Corps' Washington, D.C. Headquarters, the Wilmington District Office, and the North Carolina congressional delegation to encourage the Wilmington District to adopt a threshold consistent with those adopted for the aforementioned districts.

The 2015 Appropriations Act that required the Coastal Resources Commission (CRC) to adopt updated rules for the use of sandbags by December 2015 is repealed by this act. The new rules were approved at the May 2016 meeting of the CRC and are currently in the rulemaking process to become permanent rules. This law allows the CRC to adopt or modify those rules through emergency rulemaking.

Land Management and Conservation

SB 131 - Regulatory Reform Act of 2016-2017
Sponsored by Sens. Wells, Cook, and Sanderson

Establishes the North Carolina Sentinel Landscape Committee. The committee is directed to:

- Recognize all lands in the state as Sentinel Landscapes that are designated as such by the United States Department of Defense;
- Identify and designate certain lands to be contained in the sentinel landscape of the state that are of particular import to the nation's defense and in the vicinity of major military installations, or other areas of strategic benefit to national defense;
- Evaluate all working or natural lands that the committee identifies as contributing to the long-term sustainability of the military missions in the state;
- Develop recommendations to encourage landowners located within the sentinel landscapes to voluntarily participate in and begin or continue land uses that are compatible with the United States Department of Defense operations in the state; and
- Provide technical support and assistance to landowners who voluntarily participate in the sentinel landscape program.

Reorganization and Coordination

SB 131 - Regulatory Reform Act of 2016-2017

Sponsored by Sens. Wells, Cook, and Sanderson

Consolidates and amends reports as follows:

- The Coastal Resources Commission (CRC), Environmental Management Commission (EMC), and Marine Fisheries Commission annual report on progress in developing and implementing the Coastal Habitat Protection Plans are amended to provide that the reports are only required by September 1 of the each year in which any significant revisions to the Plans are made.
- The Department of Environmental Quality's (DEQ) annual report on the cost of the state's environmental permitting programs is consolidated with the report on the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs and the Express Permit Certification Reviews.
- EMC's quarterly report on permits and renewals for facilities discharging to surface waters are consolidated with the report on the operation and activities of the commission. The combined report is due annually and the first report must be submitted by January 1, 2018.
- DEQ's annual reports on:
 - Recycling discarded computer equipment and televisions, the Brownfields Property Reuse Act, the Inactive Hazardous Waste Response Act of 1987;
 - The Dry-Cleaning Solvent Cleanup Act of 1997; and
 - The implementation and cost of the hazardous waste management program are consolidated with the department's annual solid waste management report. The combined report is due annually and the first report must be submitted by January 15, 2018.
- DEQ's annual report on the Sedimentation Pollution Control Act of 1973 is consolidated with the

stormwater control program report. The combined report is due annually and the first report must be submitted by October 1, 2017.

- DEQ's annual reports on the development of the state water supply plan and the development of basinwide hydrological models are consolidated with the annual report on basinwide water quality management submitted by the EMC and DEQ. The combined report is due annually and the first report must be submitted by November 1, 2017.
- DEQ's annual report on accounts in the Water Infrastructure Fund is consolidated with the State Water Infrastructure Authority's reports of its activity and findings. The combined report is due annually and the first report must be submitted to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division by November 1, 2017.
- The Soil and Water Conservation Commission's annual reports on the Agriculture Cost Share Program for Nonpoint Source Pollution Control Program and the Community Conservation and Assistance Program are consolidated with the comprehensive annual report on the Agricultural Water Resources Assistance Program by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services. The combined report is due annually and the first report must be submitted by January 31, 2018.

The following reports are eliminated by this act:

- The cost of implementing the Mining Act of 1971 by the DEQ;
- The implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA);
- The report on systemwide municipal and domestic wastewater collection system permit program by the EMC;
- Reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT);
- Progress in achieving emissions reductions of NO_x and reduce vehicle miles traveled in the state by 2009 by DEQ and DOT;
- Number of new motor vehicles purchased and fuel savings by DOA;
- The state of the environment by DEQ;
- Fish kill activity by DEQ;
- Progress towards developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC;
- Implementation of the state beach and inlet management plan by DEQ; and
- Informal review process for agency review of engineering work.

Solid Waste

HB 402 Limit Environmental Liability for Certain Recyclers

Sponsored by Rep. McElraft and Rep. Yarborough

Exempts persons who arrange for recycling of recyclable materials from liability arising under state law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with applicable federal standards, requirements, and criteria.

SB 131 - Regulatory Reform Act of 2016-2017

Sponsored by Sens. Wells, Cook, and Sanderson

Amends a statute requiring local boards of education to encourage recycling and authorizes those boards to adopt recycling programs. It does so by adding a requirement that the boards comply with criteria that must be met under existing law by a local government for the local government to displace a private company that is providing collection services for municipal solid waste or recovered materials within the local government's jurisdiction. Certain construction undertaken by a private party is considered to have been undertaken by the Department of Transportation, and, as such, the stormwater law applicable to the Department applies to that construction.

The statute makes technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations. It also provides that franchise agreements previously executed by local governments for sanitary landfills may be modified by agreement of all parties to a valid and operative franchise to last for a landfill's life-of-site, provided public notice and hearing is offered prior to such a change, and no franchise agreement for a sanitary landfill, modified or newly executed, may exceed a duration of 60 years.

In accordance with the act, the Division of Waste Management in DEQ is required to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by November 1, 2017.

Water Quality and Pollution Control

SB 131 - Regulatory Reform Act of 2016-2017

Sponsored by Sens. Wells, Cook, and Sanderson

Amends several state laws related to business regulation, state and local government regulation, and agricultural, energy, environmental, and natural resources regulation.

The bill clarifies that a local health department has exclusive authority to permit and inspect private drinking water well systems and that no building permit is required for a certified well contractor to either connect or disconnect a well system to the plumbing of the structure served by the well, or connect or disconnect electrical wiring to the pump or pressure switch of a well system to the electric service that serves the well system. A well system is defined as including the well, the pressure tank, the pressure switch, and all plumbing and electrical equipment in the well and between the well and the pressure tank.

In accordance with the law, the Department of Environmental Quality (DEQ) is required to study whether the size of riparian buffers required for intermittent streams should be adjusted and whether the allowable activities within the buffers should be modified, as well as under what circumstances units of local government should be allowed to exceed riparian buffer requirements mandated by the state and the federal government. DEQ is required to report the results of the study to the Environmental Review Commission by December 1, 2017.

The Director of the Division of Water Resources in DEQ is prohibited from requiring the use of on-site stormwater control measures to protect downstream water quality standards unless required to do so by state or federal law.



OKLAHOMA

OKLAHOMA

“ Oklahoma adopted 22 energy and environmental bills during the 2017 legislative session. Notably, SB 867, known as the Oklahoma Energy Jobs Act of 2017, authorizes the Corporation Commission to create well spacing units for horizontal oil or gas wells of up to 1,280 acres. HB 1485 changes the oversight of discharge permits pursuant to the federal Clean Water Act from the federal Environmental Protection Agency to the state agency that receives delegation from the EPA, the Department of Environmental Quality. HB 1449 established fees upon electric motor vehicle registrations in the interest of funding alternative fuel corridors via the State Highway Construction and Maintenance Fund. ”

Energy Legislation

Alternative Energy Development

HB 1449 - Establishing Motor Vehicle Registration Fees Credited to the State Highway Construction and Maintenance Fund

Sponsored by Rep. Roberts and Sen. Bice

Establishes a \$100 registration fee upon every electric drive motor vehicle registered and a \$30 registration fee upon every hybrid-drive motor vehicle registered. The fees are credited to the State Highway Construction and Maintenance Fund. The measure allows the lesser of \$10,000 or one and one-half percent to be used for the development of alternative fuel corridors.

HB 2298 - Income Tax Credits for Zero-Emission Facilities Deadline

Sponsored by Reps. McCall, O'Donnell, Bennett, Kerbs, Sanders and Brumbaugh; Sens. Schulz, Treat, and Marlatt

Modifies a tax credit for electricity generated by zero-emission facilities. In the context of the bill, "electricity generated by zero-emission facilities" means electricity exclusively produced by any facility located in the state with a rated production capacity of one megawatt or greater that utilizes eligible renewable resources as its fuel source. The construction and operation of such facilities must not result in the production of pollution or emissions that are or may be harmful to the environment.

The measure changes the date in which assets must be placed in operation to July 1, 2017. Previously, assets placed in operation prior to January 1, 2021, were eligible for the credit.

SB 593 - Wind Energy Facility Procedures

Sponsored by Sen. Schultz and Rep. McCall

Directs the owner of a wind energy facility to submit a notification of intent to build to operators of any oil or gas operations, or holders of oil and gas leases, within the same area. Additionally, the law removes the requirement that a wind energy facility be located at least 1.5 miles from a private-use airport.

Coal and Minerals

HB 1376 - Oklahoma Underground Facilities Damage Prevention Act Amendments

Sponsored by Rep. Watson and Sen. Marlatt

Alters the definition of "public agency" within the Oklahoma Underground Facilities Damage Prevention Act by removing language that includes cities, towns, counties, subdivisions, or other governmental entities.

The law also requires any person, rather than only an excavator, who causes damage to underground facilities to notify the facility operator.

HB 1844 - Mining Operation Fees Adjustment

Sponsored by Rep. Osborn and Sen. Fields

Increases the Department of Mines fee per ton of mineral produced in non-coal mining operations from \$0.01 to \$0.0125.

SB 370 - Use of Explosives in Mining Operations

Sponsored by Sen. Allen and Rep. West

Provides rules and procedures for the use of explosives in mining operations within the Coal Mining Reclamation Act. The rules and procedures mirror those currently found in Oklahoma statute under Title 45, Chapter 11 - Surface Mine Safety Standards.

Persons who use explosives, blasting agents, or detonators must be certified by the Oklahoma Mining Commission. The measure also provides definitions for, and differentiates between, a "loaded hole" and a "charged hole" in the context of blasting operations for mining purposes.

SB 479 - Repealing Convict Labor Prohibition in Mines And Other Measures

Sponsored by Sen. Dahm and Rep. Cleveland

Repeals mining provisions, which include references to convict labor prohibition, signaling methods, and live stock refuse and waste among other obsolete mining laws.

Natural Gas and Petroleum

HB 1995 - Oklahoma Energy Resources Board Extension

Sponsored by Rep. Jordan and Sen. Marlatt

Recreates the Oklahoma Energy Resources Board until 2021 in accordance with the Oklahoma Sunset Law.

The board's purpose is to coordinate a program designed to accomplish the following:

- Demonstrate to the general public the importance of the Oklahoma oil and natural gas exploration and production industry;
- Encourage the wise and efficient use of energy to promote environmentally sound production methods and technologies;
- Develop existing supplies of Oklahoma's oil and natural gas resources;
- Support research and educational activities concerning the oil and natural gas exploration and production industry; and
- Cause remediation of historical oilfield environmental problems.

SB 225 - Oil and Gas Royalty Payments

Sponsored by Sen. Griffin and Rep. Wright

Exempts oil and gas royalty payments made to publicly traded partnerships or their affiliates from state income tax withholding requirements.

Previously, oil and gas royalty payments made to publicly traded partnerships or their affiliates were subject to a 5 percent tax withholding.

SB 287 - Regulating Oil and Gas Discharge into State Waters
Sponsored by Sen. Griffin and Rep. Wright

Authorizes the Corporation Commission and the Department of Environmental Quality to seek delegation from the U.S. Environmental Protection Agency to administer programs regulating oil and gas discharges into the state's water bodies.

SB 867 - Oklahoma Energy Jobs Act of 2017
Sponsored by Sen. Schultz and Sen. Marlatt; Reps. McCall, McBride and Martinez

Enacts the Oklahoma Energy Jobs Act of 2017. In an effort to create jobs and boost state and local revenues, the act authorizes the Corporation Commission to create well spacing units for horizontal oil or gas wells of up to 1,280 acres.

An application for a horizontal spacing unit larger than 640 acres must include the basis for requesting a larger unit. Unless reasonable cause is shown, the horizontal lateral must be at least 7,500 feet in order to receive a spacing unit larger than 640 acres. Further, the drilling of a multiunit horizontal well is not allowable as the initial unit well for a horizontal spacing unit, unless the proposed completed portion of the lateral is to extend 10,560 feet.

The measure allows for horizontal spacing units to be established for a common source of supply for which there are already non-horizontal drilling and spacing units. The horizontal spacing unit may exist concurrently with any previous drilling and spacing units so that each unit may be separately drilled into and developed, with production from each well to be governed by the applicable unit.

The bill also renames the 2011 Shale Reservoir Development Act to the Extended Horizontal Well Development Act. The amended act allows multiunit wells in any targeted reservoir or more than one targeted reservoir and no longer refers specifically to any one particular reservoir or source of supply.

Reorganization and Coordination

HB 1534/SB 1534 - Oklahoma Local Public and Private Facilities and Infrastructure Act
Sponsored by Reps. Montgomery, Griffith, and Roberts; Sen. Leewright

Creates the Oklahoma Local Public and Private Facilities and Infrastructure Act. The act creates a framework that would allow a local governmental entity to execute a Public-Private Partnership contract to provide public services and to generate additional resources in support of a public project.

Utilities

HB 1860 - Corporation Commission Assessments *Sponsored by Rep. Osborn and Sen. Fields*

Authorizes the Corporation Commission to assess a fee upon each public utility to provide adequate funding to the Public Utility Division of the Corporation Commission for the regulation of public utilities in the state and for providing for timely and expeditious reviews and completion of rate cases, as well as increased responsiveness to the needs of consumers and the regulated community.

Any assessment levied must be recoverable as an operating expense to the public utility to be included in a utility's base rates or basic monthly service charge. The Corporation Commission may take action necessary to ensure recovery of the assessment by a public utility during the period for which it is levied.

SB 85 - Utility Relocation in Rights-of-way *Sponsored by Sen. Fry and Rep. Roberts*

Provides an exception from the provision that, for construction on the Interstate Highway System in a municipality with 5,000 or more and on which federal funds are used for removing or relocating utility facilities, the municipality would be required to match those federal funds. If the utility is owned by another municipality with a population of at least 5,000, then the utility owner is to furnish the matching funds.

Environmental Legislation

Environmental Health Services

HB 1601 - Adding Feral Swine to Damage Management Agreement *Sponsored by Rep. Enns and Sen. Boggs*

Adds feral swine to a list of wildlife included in the wildlife damage management agreement between the Oklahoma Department of Agriculture, Food, and Forestry and the United States Department of Agriculture's Wildlife Services. Wildlife damage management of predatory animals and other species causing damage includes, but is not limited to, hunting, trapping, or other practical methods for the control of damage to resources.

The measure also authorizes state and federal wildlife management agents to carry firearms while on duty.

HB 2392 - Combined Pesticide Law Modifications *Sponsored by Rep. Osborn and Rep. Wallace; Sen. David and Sen. Fields*

Modifies the Combined Pesticide Law by creating an additional \$100 penalty for late pesticide applicator license renewals. The measure also removes the fee exemption for governmental agencies, and it increases the annual registration fee from \$160 to \$210.

The State Department of Agriculture's Unwanted Pesticide Disposal Fund appropriation will rise from \$100,000 to \$300,000, per the bill.

SB 749 - Urban Gardens Grant Act

Sponsored by Sen. Matthews and Sen. Pittman; Rep. Nichols

Creates a grant program for community gardens that are in food deserts in low-income areas. The measure creates a revolving fund that will consist of appropriated funds, federal funds, donation, grants, and contributions from public or private sources. One-time grants up to \$250,000 may be provided to entities for the purchase of greenhouses and other materials to establish and operate an urban garden. Entities eligible to apply for the grants are nonprofit community organizations, churches, or other nonprofit organizations.

The urban gardens must grow healthy foods to be sold on site or at farmer's markets, produce stands, and retailers located within the same community. This bill compels the state Board of Agriculture to promulgate rules and adopt eligibility guidelines for those seeking grants. The measure takes effect November 1, 2017.

Reorganization and Coordination

HB 1492 - Appointments to the Oklahoma Hazardous Materials Emergency Response Commission

Sponsored by Rep. Newton and Sen. Kidd

Allows a designee of the State Fire Marshal to serve on the Oklahoma Hazardous Materials Emergency Response Commission.

HB 1501 - Frequency of Wildlife Commission Meetings

Sponsored by Rep. Fetgatter and Sen. Thompson

Changes the required number of meetings of the Wildlife Commission from the first Monday of each month to at least nine times per year but no more than once per month.

Solid Waste

SB 426 - Used Tires Recycling Act Amendments

Sponsored by Sen. Leewright and Rep. Pfeiffer

Modifies the Used Tire Recycling Act by adding definitions for a "reusable tire," "trailer," "semitrailer," and "vehicle" and assessments for the latter three.

The measure also removes the requirement that tire-derived fuel facilities collect and transport tires on implements of husbandry but creates a new reimbursement rate for those tires. The measure empowers any peace officer to issue citations for certain violations of the act and directs the allocation of penalties.

Water Quality and Pollution Control

HB 1485 – Water Quality Oversight and Construction Permits

Sponsored by Rep. Watson and Sen. Griffin

Changes the oversight of discharge permits pursuant to the federal Clean Water Act from the federal Environmental Protection Agency (EPA) to the state agency that receives delegation from the EPA, the Department of Environmental Quality (DEQ).

A permit from the executive director of the DEQ is required to begin construction or make changes to a system involving municipal water treatment, nonindustrial wastewater, or sewage sludge. An application for such permit must include but not be limited to:

- An engineering report, prepared by a professional engineer registered in the state of Oklahoma, which includes a complete description of the existing and proposed system or treatment works and the wastewater outfall, if any, and any other data or information required by the department;
- A legal description of the site where the treatment works or the wastewater treatment system is or is proposed to be located; and
- A legal description of the site where any discharge point is or is proposed to be located.

This bill also gives the DEQ the authority to issue permits for aquifer storage and recovery pilot projects.



PUERTO RICO

“ Puerto Rico adopted one energy and environmental bill since the 2016 Legislative Digest was published. The measure seeks to modernize Puerto Rico Electric Power Authority’s (PREPA) net-metering program by requiring the utility to have power meters that can be read remotely. The law also requires the creation of a website allowing customers to file documents electronically to meet net-metering regulations. **”**

Energy Legislation

Alternative Energy Development

SB 1666 - Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act

Sponsored by Sen. Ramon Perez and Sen. Antonio Alzamora

Seeks to modernize Puerto Rico Electric Power Authority's (PREPA) net-metering program by requiring the utility to have power meters that can be read remotely. The law also requires the creation of a website allowing customers to file documents electronically to meet net-metering regulations.

Further, the bill expedites net-metered connections by requiring that PREPA develop expedited processes for power distributors with a capacity that is lower than one megawatt to connect to the utility's grid.

PREPA must credit every participant of the Net Metering Program "promptly and expeditiously, provided that the electricity generated by the customer exceeds the electricity supplied by PREPA during the billing month. Such credit must be clearly shown in the monthly bill for the next billing cycle after the Net Meter was installed."

The legislation also promotes community solar grids to facilitate the use of solar energy in poor communities as well as the so-called micro grids. The Commonwealth Energy Public Policy Office (CEPPO) must "formulate strategies and make recommendations to the Energy Commission to improve the electric power service in low-income communities through the study, promotion, and development of Community Solar Projects, using as guidelines the recommendations made by organizations such as IREC and NREL, adapted to Puerto Rico, and seeking the input of PREPA and the representatives of community organizations as well as relevant professional, and academic organizations."

Further, CEPPO, in conjunction with the Energy Commission and PREPA, must study the best practices of the electric power industry and establish a plan for the development of microgrids in Puerto Rico. To minimize costs and broaden access to greater physical and human resources, CEPPO may partner with local or federal agencies, or recognized universities or institutes of electric power research, inside and outside of Puerto Rico, to carry out this task. Initially, this option must be made available to low-income communities, universities, healthcare centers, and public institutions.

This bill went into effect immediately upon passing.



SOUTH CAROLINA

“*South Carolina adopted eight energy and environmental bills during the 2017 legislative session. The Infrastructure and Economic Development Reform Act was established by HJR 3516. It dictates that all state revenues and state monies dedicated by statute to the operation of the Department of Motor Vehicles must be deposited into either the 'State Highway Fund', the 'State Non-Federal Aid Highway Fund', or the 'Infrastructure Maintenance Trust Fund'. SB 315 seeks to address issues caused by recent flooding by authorizing the Hurricane, Earthquake, and Fire Advisory Committee to address the mitigation of property losses due to flood.*”

Energy Legislation

Energy Efficiency

HJR 3516 – Infrastructure and Economic Development Reform Act

Sponsored by Reps. Simrill, G.M. Smith, Newton, Cole Jr., Hixon, Lucas, Pope, Bales, Delleney, Sandifer, White, Stringer, Clary, Herbkersman, and Douglas

Establishes that all state revenues and state monies dedicated by statute to the operation of the Department of Motor Vehicles must be deposited into either the State Highway Fund, the State Non-Federal Aid Highway Fund, or the Infrastructure Maintenance Trust Fund.

Interest income from the Infrastructure Maintenance Trust Fund must be deposited to the credit of the Infrastructure Maintenance Trust Fund. The Infrastructure Maintenance Trust Fund must be used exclusively for the repairs, maintenance, and improvements to the existing transportation system.

The bill states that in addition to the registration fees imposed by existing statute, the owner of motor vehicles powered exclusively by electricity, hydrogen, or any fuel other than motor fuel defined in existing law, that are not subject to motor fuel user fees imposed by Chapter 28, Title 12, must pay a biennial road use fee of \$120.

The owner of motor vehicles powered by a combination of motor fuel subject to motor fuel user fees imposed by Chapter 28, Title 12, and electricity, hydrogen, or any fuel other than motor fuel that is not subject to motor fuel user fees imposed by Chapter 28, Title 12, must pay a biennial road use fee of \$60. All of the fees collected pursuant to the law must be credited to the Infrastructure Maintenance Trust Fund. The Department of Motor Vehicles must collect the fee at the same time as the vehicle subject to the fee is registered.

This legislation takes effect January 1, 2018.

Environmental Legislation

Coastal Zone Management

SB 465 - Shellfish Cultivation and Harvest Permitting and Regulation

Sponsored by Sen. Campsen

Establishes new rules in regard to shellfish cultivation and harvesting in South Carolina.

Prior to obtaining a molluscan shellfish license, a person or entity must complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control.

Shellfish Culture permittees must acquire a permit to take shellfish for replanting from state bottoms designated by the department for that purpose. The permittee must apply to the department ten days before removing shellfish. Shellfish Mariculture permittees must acquire a permit from the department to take wild shellfish seed for use in mariculture. Issued permits may include conditions related to:

- Harvest dates and harvest areas;

- Shellfish size and quantity limits;
- Cull requirements; and
- Protection of the natural resources of the state.

In order to obtain an individual harvesting permit, a person must be a licensed commercial saltwater fisherman, hold all other appropriate valid commercial licenses, and complete any shellfish training required by regulations promulgated by the South Carolina Department of Health and Environmental Control. Permits issued may include the same conditions as those issued for mariculture.

This bill also prohibits the placement of genetically modified shellfish, including polyploid shellfish, into the waters of the state or waters connected to the waters of the state, except under the provisions of a permit issued by the department.

Emergency Management and Homeland Security

SB 315 - Hazard Mitigation and Matching Grants

Sponsored by Sen. Cromer

Authorizes the Hurricane, Earthquake, and Fire Advisory Committee to address the mitigation of property losses due to flood.

The measure establishes a loss mitigation grant program within the Department of Insurance. Funds may be appropriated to the grant program, and any funds appropriated must be used for the purpose of making grants to local governments or for the study and development of strategies for reducing loss of life and mitigating property losses due to hurricane, flood, earthquake, and fire. Grants to local governments must be for the following purposes:

- Mitigating losses for eligible residential properties within the local jurisdiction in accordance with the guidelines established by the director or his designee; and
- Providing technical assistance to and acting as an information resource for local governments in the development of proactive hazard mitigation strategies as they relate to reducing the loss of life and mitigating property losses due to natural hazards to include hurricane, flood, earthquake, and fire.

Funds may be appropriated for a particular grant only after a majority affirmative vote on each grant by the advisory committee and submission of a resolution approved by a majority of the members of the relevant local governing body approving the application for grant funds. The Department of Insurance may make application and enter into contracts for and accept grants in aid from federal and state government and private sources for the purposes of:

- Mitigating losses for eligible residential properties in accordance with the guidelines established by the director or his designee; and
- Conducting loss mitigation studies for the development of strategies or measures aimed at reducing loss of life and mitigating property losses due to hurricane, flood, earthquake, and fire; or
- Any other purposes consistent with the act.

The bill also establishes that the South Carolina Hurricane Damage Mitigation Program may award matching or nonmatching grants based upon the availability of funds. The program administrator must apply for financial grants to be used to assist single-family, site-built or manufactured or modular, owner-occupied, residential property owners to retrofit their primary legal residence to make them less vulnerable to hurricane damage.

To be eligible for a matching grant, a residential property must:

- Be the applicant’s primary legal residence;
- Be actually owned and occupied by the applicant;
- Be the owner’s legal residence;
- Be a single family, site-built, manufactured, or modular, owner-occupied residential property;
- Have undergone an acceptable wind certification and hurricane mitigation inspection in accordance with program requirements; and
- Be a residential property covered by a current homeowners or dwelling insurance policy that:
 - Is issued by an insurer licensed in South Carolina or a surplus lines insurer, where the policy is lawfully placed by a broker authorized to do business in the state; and
 - Provides insurance coverage of the residential property equal to or greater than the fair market value of the residential property as reflected in the county records.

All matching grants must be matched on a dollar-for-dollar basis for a total of \$10,000 for the mitigation project. No grant issued by the program for any mitigation project for a residential property may exceed \$5,000.

Environmental Health Services

HB 3601 – Modifying Rules for Bear Hunts

Sponsored by Reps. Clemmons, Pitts, Hiott, Hardee, Duckworth, Crawford, Yow, Delleney, Lowe, White, Hewitt, and Hixon

Repeals language providing that in game zones other than game zone 1, applicants for bear tags, upon the payment of an application fee, must be chosen by random drawing which are valid for a specified game zone.

The open season for hunting and taking bear in Game Zone 1 for still gun hunts is October 17 through October 23; for party dog hunts it is October 24 through October 30. The Department of Natural Resources (DNR) reserves the right to declare open season in Zones 2, 3, and 4 and determine quota of tags in each zone. The department may close the season at any time with a 24-hour notice.

The law is further amended to provide that DNR must establish regulations to set the conditions for taking of bear, including methods of take, areas, times, limits, seasons, and other conditions to properly control the harvest of bear in game zones 2, 3, and 4.

The bill also compels the department to provide a report of a one-year study by July 1, 2018, to the Chairman of the Senate Fish, Game and Forestry Committee and the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee. The report must include, but is not limited to, the harvest summary of Black Bear in Game Zones 1-4.

HB 4003 - Produce Safety Act

Sponsored by Reps. Hiott, Hewitt, Davis, Forrest, Bennett, West, Ott, Atkinson, and Hixon

Creates the "Produce Safety Act," which authorizes the South Carolina Department of Agriculture to enforce certain food safety standards applicable to farm produce including, but not limited to, the authority to:

- Inspect certain farms;
- Seize, condemn, and destroy covered produce; and
- Obtain a court order for forfeiture and destruction of covered produce.

The measure also authorizes the department to promulgate regulations necessary for the enforcement of the act.

For purposes of enforcement, the Department of Agriculture Commissioner, or any authorized agent of the commissioner, upon presenting appropriate credentials to the farm's owner, operator, or agent in charge, may:

- Enter at reasonable hours on any farm in which produce is grown, packed, stored, or held for introduction into commerce or after introduction or enter any vehicle being used to transport or hold the food in commerce;
- Inspect at reasonable hours and within reasonable limits and in a reasonable manner the farm and all pertinent equipment, finished and unfinished materials, containers, and labeling and to obtain samples necessary for the enforcement of the law; and
- Have access to and to copy all records of carriers in commerce showing the movement in commerce of any food, or the holding of it during or after movement, and the quantity, shipper, and consignee of it.

SB 443 - Night Hunting Amendments

Sponsored by Sens. Campsen, Young, McElveen, Williams, and Corbin

Adds turkey to the list of animals covered by the provisions relating to the unlawful hunting of wildlife at night.

Raccoons, opossums, foxes, minks, and skunks may be hunted at night on property on which a person has a lawful right to hunt; however, the animals may not be hunted with artificial lights except when treed or cornered with dogs, and may not be hunted with buckshot or any shot larger than a number four, or any rifle ammunition larger than a twenty-two caliber rimfire.

This bill declares use of artificial lights for the purpose of observing or harassing wildlife unlawful, except that a property owner, or person with permission from the property owner, may use artificial lights to observe wildlife prior to 11:00 p.m. This section does not prohibit:

- A property owner from using artificial lights for the purpose of protecting the property;
- A person or group, with permission of the property owner, from observing wildlife with the use of artificial lights, while engaged in research or documentary filming;
- A person from using artificial lights to night hunt; or
- A person from using remote trail monitors or cameras on a property.

SB 570 - Premature Pesticide Application Penalties *Sponsored by Sen. Massey*

Provides that the director of the Division of Regulatory and Public Service Programs may deny, suspend, revoke, or modify a license or certificate if the holder made a pesticide application without attaining the proper pesticide application license beforehand.

Hazardous Waste and Substance Management

SB 181 - Hazardous Waste Management Act Amendments *Sponsored by Sen. Shealy*

Makes the federal Superfund Recycling Equity Act applicable to South Carolina's 1976 Hazardous Waste Management Act.



TENNESSEE

“ Tennessee adopted 24 energy and environmental bills during the 2017 legislative session. The Tennessee Energy Policy Council is established by HB 438. The 13-member state energy policy council will advise the Governor and the General Assembly on how to identify all state energy resources to ensure a secure, stable, and more predictable energy supply; manage the use of energy resources; and increase domestic energy exploration, development, and production within the state and region, with the goal of promoting economic growth and job creation while ensuring the protection and preservation of the state’s natural resources, cultural heritage, and quality of life. HB 1021 establishes a moratorium against activities associated with wind energy facilities in certain counties. SB 1266 limits the Tennessee Regulatory Authority’s jurisdiction over an investor-owned electric power company serving Tennessee customers on the western side of the Mississippi River. ”

Energy Legislation

Alternative Energy Development

HB 1021 – Moratorium Against Certain Wind Energy Facility Activities

Sponsored by Rep. Sexton and Rep. White

Imposes a moratorium against activities associated with wind energy facilities in certain counties and creates a joint legislative study committee.

Subject to an exemption for counties and municipalities that have adopted regulations related to the siting of wind energy facilities in their jurisdictions on or before July 1, 2017, beginning on the date that this bill becomes a law until July 1, 2018, this amendment imposes a moratorium on the construction, operation, expansion, or redevelopment of a wind energy facility in the state.

This measure creates a six-member joint legislative study committee to evaluate and make recommendations relative to the siting of wind energy facilities. The committee must report its findings and recommendations, including any potential legislation, to the energy, agriculture and natural resources committee of the senate and the agriculture and natural resources committee of the house of representatives by January 1, 2018, at which time the committee ceases to exist.

Coal and Minerals

SB 1337 – Reporting Requirements for Certain Mines

Sponsored by Sen. Bailey and Sen. Yager

Requires mine owners who do not measure tons mined to include man hours, in lieu of the tons mined, on an annual report to the Department of Labor and Workforce Development. This bill also defines the duties and responsibilities of a “qualified assistant” at a mine.

Emergency Management and Homeland Security

SB 220 – Authorizing Deadly Force for Nuclear Security Officers

Sponsored by Sen. Crowe and Sen. Southerland

Clarifies that deadly force may be used by nuclear security officers at both nuclear power reactor facilities and category I nuclear facilities when necessary.

SB 763 – Revising Rights of Tennessee Emergency Management Agency Employees

Sponsored by Sen. Stevens and Sen. Crowe

Establishes that local emergency management agency personnel have all rights, benefits, privileges, and protections available pursuant to state and local laws, including death benefits in the amount of \$25,000.

Energy Efficiency

HB 1384 – Eco-Efficient Transit-Oriented Redevelopment *Sponsored by Reps. Jernigan, Powell, Clemmons, and Gilmore*

Establishes authorization and procedures for housing authorities to redevelop certain areas for transit projects.

The law authorizes housing authorities to carry out any transit-oriented redevelopment project and, to that end, to:

- Acquire transit-deficient areas;
- Acquire other real property for the purpose of removing, preventing, or reducing blight resulting from transit deficiency; blighting factors resulting from transit deficiency; or the causes of blight resulting from transit deficiency;
- Acquire real property where the condition of the title, the diverse ownership of the aggregate real property to be acquired, the street or lot layouts, or other conditions prevent a proper development of the property, and where the acquisition of the area by the authority is necessary to carry out a transit-oriented redevelopment plan;
- Acting on its own or through third parties engaged to act on the housing authority's behalf:
 - Clear any areas acquired;
 - Install, construct, or reconstruct the following: streets, utilities, and site improvements; parks, public open spaces, public playgrounds, pedestrian ways, and all parking structures, regardless of use; public infrastructure, including high capacity transit facilities, water, solid waste, transportation, telecommunication, energy use capture and transmittal, power systems, and alternative power systems or alternate power projects that incorporate principles of urban sustainability, eco-efficiency, and global sustainable development; and privately owned affordable housing or workforce housing; and
 - Pay expenses for relocation, administrative costs, planning and engineering costs, energy efficiency costs, and legal expenses associated with exercising the powers granted in the bill;
- Sell or lease acquired land for uses in accordance with the transit-oriented redevelopment plan; and
- Borrow money upon its bonds, notes, or other evidences of indebtedness to finance any action authorized by this bill and to carry out a transit-oriented redevelopment plan.

Prior to initiating a transit-oriented redevelopment project under this measure, the governing body, or the agency designated by the governing body or empowered by law so to act, of the municipality in which any of the area to be covered by the transit-oriented redevelopment project is situated, must have approved a transit-oriented redevelopment plan that provides an outline for the development or redevelopment of the area. The statute specifies that any disapproval of any transit-oriented redevelopment project by the governing body of a county as authorized by the bill will be automatically dissolved wherever written agreement duly approved by the governing body of the municipality involved is furnished to the county governing body; provided, that the agreement must exempt the county property tax levy and all proceeds from it generated within the transit-oriented redevelopment project from the tax increment financing

provisions specified in this act.

A governing body will not approve a plan until after a public hearing has been held by the governing body, or agency designated by it or empowered by law so to act, to determine the necessity for the adoption of the plan. This bill sets out the notice requirements for such a public hearing.

Natural Gas and Petroleum

SB 237 - Providing Exceptions to Formula Required for Ethanol-Blended Gasoline *Sponsored by Sens. Southerland, Ketron, Bailey, and Bowling*

Provides exceptions to the standard formula required for gasoline blended with ethanol. The exceptions are to remain in effect until the American Society for Testing and Materials incorporates changes to the vapor pressure maximums for ethanol blends.

Reorganization and Coordination

HB 438 - Creating the Tennessee Energy Policy Council *Sponsored by Reps. Ragan, White, Powers, Hardaway, Howell, Gilmore, and Reedy*

Creates a 13-member state energy policy council to advise the Governor and the General Assembly on how to accomplish the following:

- Identify all state energy resources to ensure a secure, stable, and more predictable energy supply;
- Manage the use of energy resources; and
- Increase domestic energy exploration, development, and production within the state and region, with the goal of promoting economic growth and job creation while ensuring the protection and preservation of the state's natural resources, cultural heritage, and quality of life.

This law creates a special Energy Policy Development Resources Fund to be administered by the Office of Energy Programs in the Department of Environment and Conservation. The council will be authorized to solicit grants, appropriations, and contributions to be deposited in the fund. Monies in the fund will be allocated and disbursed:

- By the Office of Energy Programs for the purpose of developing the comprehensive state energy policy plan;
- In furtherance of the purposes of the bill; and
- To offset the cost of administering the bill.

An annual \$50,000 grant from the energy resources fund is required to be disbursed, and the bill expresses the legislative intent that the annual amount be appropriated each fiscal year in the general appropriations act for awarding a grant.

SB 140 – Revising Comptroller Duties

Sponsored by Sen. Massey

Removes the requirement that a comptroller periodically conduct performance audits of state agencies authorized or required to act relative to the conservation of energy, the study and production of alternative sources of energy, and energy security. Such agencies remain subject to performance audit for governmental entity review purposes.

Utilities

SB 138 – Training Requirements for Utility Commissioners

Sponsored by Sen. Johnson

Establishes the education requirements for members of the Municipal Utility Board of Commissioners to be as follows:

- The Municipal Utility Commissioner must attend a minimum of 12 hours of training and continuing education within one year of election or reelection. The subjects must include, but are not limited to, board governance, financial oversight, policy-making responsibilities, and other topics reasonably related to the duties of the commissioner;
- The commissioner must also attend a minimum of 12 hours of training and continuing education in each continuing education period after the initial training and continuing education. For the purposes of the bill, “continuing education period” is a period of three years beginning January 1 after the calendar year in which a municipal utility commissioner completes the training and continuing education requirements and each succeeding three-year period thereafter;
- Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for municipal utility commissioners covering the required subjects and submit the curriculum to the comptroller of the treasury for review and approval. The comptroller will file a copy of approved curriculum with the water and wastewater financing board. Changes and updates to the curriculum must be submitted to the comptroller for approval. Any curriculum approved by the comptroller will be updated every three years and resubmitted to the comptroller for review and approval; and
- A municipal utility commissioner may request an extension of up to six months from the comptroller of the treasury or the comptroller’s designee. The request will only be granted upon a reasonable showing of substantial compliance with the training and continuing education requirements. If the extension is granted, the municipal utility commissioner must complete the training hours necessary to achieve full compliance for the continuing education period. The municipal utility commissioner must file copies of any extension request letters and corresponding comptroller of the treasury determination letters with the water and wastewater financing board.

Under the bill, if any municipal utility commissioner fails to meet the education requirements before the end of the continuing education period or any approved extension, then the water and wastewater financing board may order reasonable sanctions against the municipality. Sanctions may include the municipality being ineligible to receive assistance from the Tennessee Local Development Authority under the Drinking Water Revolving Loan Fund Act.

SB 159 – Revising Duties of the Utility Management Board

Sponsored by Sen. Hensley

Revises various provisions relative to utility districts and wastewater facilities.

This bill removes the reference to the utility management board having authority over districts created by “public act” and removes the reference, in regard to entities over which the board does not have authority, those agencies, authorities or instrumentalities of government to come under the jurisdiction of the Water and Waste Water Financing Board.

The measure removes exclusions from the board’s authority to review rates and services and to maintain a set of rules and regulations regarding the adjustment of all complaints that may be made to the district. It also removes other various provisions that create exemptions for the gas utility districts and the districts in counties described above so that all such provisions will apply uniformly in all districts. Further, the bill removes language providing that a local government has to meet certain requirements for a loan.

Under prior law, “water systems and wastewater facilities” included any treatment authority created pursuant to the Water and Wastewater Treatment Authority Act that operates a water or wastewater facility. This statute adds as a water system and wastewater facility any county, metropolitan government, or incorporated town or city empowered to provide water or wastewater services. Further, the bill specifies that such entities are subject to the jurisdiction of the water and wastewater financing board.

SB 231 – Revising Provisions Related to Audited Financial Reports of Certain Self-Sufficient Utilities

Sponsored by Sen. Lundberg

Clarifies that for the audited financial reports of certain self-sufficient utilities, a change in net position means total revenues less all grants, capital contributions, and expenses.

SB 951 – Removing Sunset Provisions from Hamilton County Water and Wastewater Treatment Authority

Sponsored by Sen. Watson and Sen. Gardenhire

Replaces prior law that scheduled the Hamilton County water and wastewater treatment authority to dissolve with a process for review of certain water and wastewater treatment authorities by the government operations committees’ joint review subcommittees.

Under the bill, any water and wastewater treatment authority that has one or more loans from the revolving loan funds established by the Wastewater Facilities Act of 1987 and the Drinking Water Revolving Loan Fund Act of 1997 with a principal balance that, in the aggregate with the principal balance or balances for any additional loan application or applications from the revolving loan funds total more than \$15.5 million is subject to review by the government operations committees’ joint review subcommittees. For authorities existing on January 1, 2017, and that are subject to review under this law, the county mayor of the creating governmental entity must submit a status report on measures currently underway to resolve the financial, technical, managerial, and organizational challenges faced by the authority to the joint evaluation committee no later than July 1, 2017.

SB 1087 - Various Changes to the Municipal Energy Authority Act

Sponsored by Sen. Stevens

Makes various changes to the Municipal Energy Authority Act, including expanding the application of the act beyond just municipalities that have adopted home rule and authorizing authorities created pursuant to resolution by such municipalities to provide gas, water, and wastewater services.

The bill expands the definition of “associated municipality” to any municipality with a population of 335,000 or less that, as of the date an energy authority is formed under the act, operates an electric system under the authority of the Municipal Plant Law, the municipality’s charter, or otherwise applicable law.

This measure extends the authority of an energy authority to gas, water, and wastewater systems. It requires that each such system be operated independently of the others, but authorizes combined services in some circumstances. This bill also specifies that the energy authority may not exercise any of the powers granted for water, gas, or wastewater wholly or partly within the legal boundaries of an incorporated city or town or a utility district incorporated pursuant to the Utility District Act of 1937, or any other municipal entity, except to the extent the authority succeeds to the rights and powers of the municipal system or except as allowed by law, without the consent of the governing body of such city, town, utility district, or municipal entity.

The act specifies, in regard to the payments in lieu of taxes authorized under present law, that such payments from gas system revenues must be made in accordance with the Municipal Gas System Tax Equivalent Law. Payments made from revenues of the water and wastewater systems must be made by agreement with the affected municipality.

SB 1266 - Modifying Jurisdiction of Tennessee Regulatory Authority

Sponsored by Sen. Norris

Limits the Tennessee Regulatory Authority’s jurisdiction over an investor-owned electric power company serving Tennessee customers on the western side of the Mississippi River to hearing complaints alleging violations of such company’s duty to provide its Tennessee customers with the same level of service and charge the same rates as the company provides and charges similarly situated customers in Arkansas and ordering changes in the company’s services or rates to those Tennessee customers. Upon a finding that an investor-owned electric power provider has engaged in unjust or unreasonable discrimination in service or rates in violation the measure, the authority may order changes in the provider’s services or rates to those Tennessee customers.

Environmental Legislation

Air Quality and Pollution Control

SB 1371 - Revises Various Provisions Concerning Local Air Pollution Control Regulation

Sponsored by Sen. Johnson

Makes the granting of a certificate of exemption by the Air Pollution Control Board permissive rather than mandatory and provides a list of factors for the board to consider when deciding whether to issue the certificate.

This amendment also prohibits local governments from:

- Including land use or zoning requirements in its air pollution control regulations or the local government's certificate of exemption; and
- Requesting that the board include land use or zoning requirements in the state implementation plan submitted to the United States Environmental Protection Agency.

Emergency Management and Homeland Security

SB 763 - Revising Rights of Tennessee Emergency Management Agency Employees
Sponsored by Sen. Stevens and Sen. Crowe

Establishes that local emergency management agency personnel have all rights, benefits, privileges, and protections available pursuant to state and local laws, including death benefits in the amount of \$25,000.

Inland Water Resource Management and Conservation

HB 74 - Ocoee River Recreation and Economic Development Fund Act
Sponsored by Reps. Howell, Brooks, and Daniel

Enacts the Ocoee River Recreation and Economic Development Fund Act to support recreational water releases on the Ocoee River management by Tennessee State Parks and to encourage economic growth of the river.

The statute establishes the Ocoee River Recreation and Economic Development Fund as a special agency account in the state general fund. The development fund may be used for the following purposes:

- All costs incurred by the department associated with management of the Ocoee River management zone;
- Infrastructure upgrades to the Ocoee River management zone;
- Tourism promotion and economic development activities that benefit the Ocoee River management zone;
- Expenses of the board and the department associated with administration of the development fund; and
- Other reasonable expenses as determined by the board to be necessary to carry out the intent of this amendment.

This amendment creates the Ocoee River recreation and economic development board to consist of the following members:

- The manager of the Hiwassee/Ocoee Scenic River State Park;
- The comptroller of the treasury, or designee;

- The state treasurer, or designee;
- The member of the house of representatives whose legislative district includes the majority of the Ocoee River management zone;
- The member of the senate whose legislative district includes the majority of the Ocoee River management zone;
- The Polk County mayor;
- One member, appointed by the Governor, who represents economic development interests;
- One member, appointed by the Governor, who represents private boater interests; and
- Three members, appointed by the Governor, who are Ocoee River management zone commercial permit holders.

The board is authorized to:

- Apply for and receive grants and matching funds to carry out the purposes of this amendment;
- Request and receive gifts, contributions, bequests, and donations from public and private sources to effectuate its purpose;
- Create or establish a nonprofit organization;
- Enter into contracts and cooperative agreements;
- Adopt policies and guidelines for the use of the development fund;
- Make such studies and recommendations to the department concerning the Ocoee River management zone; and
- Take any other necessary actions to carry out this amendment.

Beginning in the 2019 rafting season, and continuing for each subsequent rafting season, this legislation authorizes the commissioner of the Department of Environment and Conservation to issue permits to commercial operations conducting business within the Ocoee River management zone. Further, the bill authorizes the commissioner to levy and collect the Ocoee River recreation fee, which is 10 percent of the annual gross revenue generated by commercial activities occurring within the Ocoee River management zone. Revenue generated from the fee must be deposited in the development fund.

Finally, the board is required to submit an annual report to the Governor, Speaker of the House of Representatives, Speaker of the Senate, the Chair of the Energy, Agriculture and Natural Resources Committee of the Senate, and the Chair of the Agriculture and Natural Resources Committee of the House of Representatives by June 30 of each year. The report must include detailed information on the operation and financial status of the development fund and any nonprofit entity created by the board.

SB 818 – Rights to Return Flows in U.S. Army Corps of Engineer-owned Reservoirs
Sponsored by Sen. Southerland

Extends to a person who has contracted for the right to store water in a reservoir owned by the U.S. Army Corps of Engineers the exclusive rights to any return flows generated directly or indirectly to that reservoir by the person.

Land Management and Conservation

SB 707 – Relative to Industrial Development Corporations
Sponsored by Sen. Yager and Sen. Yarbrow

Authorizes, in certain circumstances, transfer of parcels of property located on a remediation site in Oak Ridge to the industrial development board consistent with the terms of the conveyance. The industrial development board is authorized to sell, lease, dispose of, or contract for the operation of the property in furtherance of the public purpose of promoting economic development in that area.

This measure defines ‘remediation site’ to mean a site containing at least 1,300 acres that have been held by the United States Department of Energy (DOE) due to an extended period of environmental remediation and conveyed by the DOE to a nonprofit entity that is recognized as tax exempt by the internal revenue service and engaged in economic development.

Solid Waste

SB 1199 – Record-keeping Requirements for Owners and Operators of Transfer Stations
Sponsored by Sen. Norris and Sen. Southerland

Revises record-keeping requirements to include owners and operators of transfer stations. The owner or operator is responsible for maintaining an accurate written record of all amounts and county of origin of solid waste, measured in tons, received at the facility and submitting such information to the Department of Environment and Conservation.

Water Quality and Pollution Control

HB 1017 – Defining Concentrated Animal Feed Operations
Sponsored by Reps. Hawk, Lamberth, Doss, White, Eldridge, Byrd, Gant, and Sherrell

Removes the present law authority of the Department of Environment and Conservation to define “concentrated animal feeding operation” (CAFO) more stringently than federal law requires. This measure changes present law to specify that only a CAFO that actually discharges a pollutant in to the waters is required to have a permit.

SB 683 – Fluoride Testing Requirements
Sponsored by Sen. Yager and Sen. Gresham

Requires public water systems for which a monthly fluoride test is confirmed by quarterly laboratory analysis to exceed 1.5 mg/L to have each monthly test analyzed by a laboratory until fluoride levels are below 1.5 mg/L for three consecutive months.

SB 819 – Revising Provisions for the Water Quality Control Act
Sponsored by Sens. Southerland, Bowling, and Stevens

Revises provisions governing the enforcement of the Water Quality Control Act.

The legislation clarifies that the Department of Environment and Conservation is the sole state agency authorized to conduct investigations under the act and that other state agencies may assist the department in satisfying its duties under the act.

The measure requires that the Department of Agriculture be notified of investigations under the act that are associated with agricultural activities instead of requiring that investigations on property used in agriculture be conducted in consultation with the Department of Agriculture.

SB 999 – Rules Promulgated by Water Authorities
Sponsored by Sens. Watson, Southerland, and Gardenhire

Establishes that an authority created under the Water and Wastewater Treatment Authority Act must promulgate rules for:

- The installation and maintenance of grease interceptors, the regulation of sewer discharges from industrial facilities, and the inspection and maintenance of private or public service laterals;
- Imposing on a customer base, region, neighborhood, basin, or area an obligation on customers, occupants, or property owners to inspect their own respective service laterals and make necessary repairs. The authority may apply specific requirements on one customer base, region, neighborhood, or basin at a time due to environmental concerns, the need for repairs, internal budgeting, scheduling, and limited resources of the authority necessitating the authority to focus on one area at a time;
- Penalties for failure to comply with the authority's rules, not to exceed five times the fees avoided or three times the cost of cleanup, repair, enforcement, and damages, including costs incurred by the authority to make repairs or perform other work necessitated by the failure of a property owner to fulfill its obligations under applicable laws or the authority's rules.
- Authorize shutting off water and sewage usage until a property owner or occupant complies with the authority's rules or pays any penalties imposed by the authority. The authority may impose a penalty against the owner or occupant of a property but may not impose a penalty against an owner or occupant of property for a violation caused by a previous owner or occupant of the property; and
- Any other rules necessary to effectuate the purposes of the Water and Wastewater Treatment Authority Act, or to comply with the requirements of rules of the department of environment and conservation, regulations of the United States Environmental Protection Agency, or consent decrees.

This amendment prohibits a municipality or county government entity within the service area of a sewer authority created under the Water and Wastewater Treatment Authority Act from issuing:

- A building permit or a demolition permit prior to a sewer permit being issued by the sewer authority, or
- A certificate of occupancy prior to a sewer permit being finalized by the sewer authority.



TEXAS

“ Texas adopted 43 energy and environmental bills during the 2017 legislative session. Both houses of the state congress passed resolutions (HR 1833/ SR 712) urging the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code. SB 277 prohibits subsidies and abatements for wind energy projects within 30 nautical miles of the boundaries of military aviation facilities. HB 1257 amends the Penal Code to expand the conduct that constitutes a state jail felony criminal mischief offense to include causing wholly or partly the impairment or interruption of property used for flood control purposes or a dam when the amount of pecuniary loss is less than \$30,000. ”

Energy Legislation

Alternative Energy Development

HR 1833/SR 712 - Resolution Urging Congressional Action Regarding Carbon Capture
Sponsored by Reps. Craddick, Paul, Reynolds, and Thompson; Sen. Seliger

Urges the Congress of the United States to enact legislation to expand and extend the current federal tax credit for carbon capture, utilization, and storage under Section 45Q of the Internal Revenue Code.

The resolution also asks Congress to provide appropriations to the U.S. Department of Energy sufficient to achieve and sustain a robust carbon capture research, development, demonstration, and deployment program and to support the inclusion of economically and environmentally beneficial carbon capture projects in any forthcoming federal infrastructure initiative.

Finally, the resolution urges Congress to support policies to increase the operational efficiency, and thereby the environmental performance, of existing electric-generating units and to support the preservation of a fuel-diverse electric generation portfolio critical to Texas's domestic economic, energy, and national security.

SB 277 - Prohibiting Wind Energy Projects Near Military Bases

Sponsored by Sens. Campbell, Estes, Hinojosa, Hughes, Kolkhorst, Lucio, and Taylor, and Rep. Frank

Protects the long-term viability of Texas military bases to carry out their missions by prohibiting Chapter 313 tax subsidies and abatements for wind energy projects within 30 nautical miles of the boundaries of military aviation facilities.

The bill also prevents taxpayer dollars from being used to subsidize structures that could ultimately have a serious negative impact on the state's economy and threaten the very existence of active military bases and the support they provide local communities.

Coal and Minerals

HB 2582 - Exempting Certain Quarries from Certain Regulations

Sponsored by Rep. Sheffield and Sen. Buckingham

Amends current law relating to an exemption for certain quarries from regulation as aggregate production operations. The measure seeks to protect small artisan decorative marble and granite quarries by adding them to the list of quarries exempted from certain aggregate production operation regulations.

Emergency Management and Homeland Security

SB 854 - Food and Beverage Funding in an Emergency

Sponsored by Sen. Nelson and Rep. Flynn

Amends existing law to expand the Texas Division of Emergency Management's current authority to use appropriated funds to purchase food and beverages for any personnel responding to a disaster or emergency and unable to leave due to the incident.

Energy Efficiency

HB 1571 - Energy Savings Performance Contracts Modifications

Sponsored by Rep. Paddie and Sen. Hughes

Amends current law relating to energy savings performance contracts.

The law authorizes the State Board of Education, a state agency, or a local governing body to use any available money to pay the provider of the energy or water conservation measures, rather than to use any available money other than money borrowed from the state. This bill takes effect on September 1, 2017.

SB 59 - SECO Planning Assistance and Reporting

Sponsored by Sen. Zaffirini and Rep. Kuempel

Requires the State Energy Conservation Office (SECO) to provide energy and water management planning assistance to a state agency or an institution of higher education (IHE), including assistance relating to preparation by the agency or IHE of a long-range plan for the delivery of reliable, cost-effective utility services for the state agency or IHE.

SECO is required to submit a report to the Governor and the Legislative Budget Board on the status and effectiveness of the utility management and conservation efforts of state agencies and IHEs no later than January 15 of each odd-numbered year.

This statute also removes references to 'gasoline' and replaces it with 'transportation fuel' as it pertains to an agency's or IHE's comprehensive energy and water management plan.

This legislation broadens the language concerning the percentage goals for reducing a state agency's or institution's energy use in its comprehensive energy and water management plan to account for other types of alternative fuels such as natural gas or electricity that agencies or higher education institutions may use.

Natural Gas and Petroleum

HB 129 - Information Requirements for Oil and Gas Royalty Owners

Sponsored by Rep. Craddick and Sen. Estes

Amends current law relating to the manner in which a payor of proceeds derived from the sale of oil or gas production is required to provide certain information to a royalty interest owner.

The bill provides that, if payment is made using a paper check delivered by mail or a private delivery service, the payor may not provide the required information in any manner other than by including it on a check stub, attachment to the payment form, or remittance advice without the consent of the royalty owner.

This act becomes effective September 1, 2017.

HB 1472 - Public Junior Colleges Investing Oil and Gas Royalties

Sponsored by Reps. Capriglione, Goldman, Darby, King, Turner, Fallon, and Sen. Nelson

Authorizes the governing board of a public junior college district to invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee pursuant to the Texas Trust Code.

HB 1818 - Railroad Commission Extension and Authorizations for Fees

Sponsored by Reps. Gonzales, Raymond, Darby, Thompson, and Flynn; Sen. Taylor and Sen. Estes

Extends the termination date of the Railroad Commission of Texas from September 1, 2017, to September 1, 2029.

The measure requires the commission to publish an oil and gas monitoring and enforcement strategic plan to make the best use of limited regulatory resources. Further, the bill allows the commission to create a pipeline permit fee to cover administrative costs of issuing the permit and to address funding shortfalls.

The bill authorizes the railroad commission to enforce damage prevention requirements for interstate pipelines, adding to its existing authority for intrastate pipeline damage prevention.

The act also repeals the Alternative Fuels Promotion Program and the Oil and Gas Regulation and Cleanup Fund Advisory Committee. The committee has not met since February 2012 and has not issued a report since 2009.

SB 1120 - Prohibition of Local Motor Fuel Taxes on Natural Gas

Sponsored by Sen. Zaffirini and Rep. Wray

Extends the prohibition of local motor fuel taxes on the sale, use, or distribution of liquefied natural gas and compressed natural gas.

SB 1871 - Criminalizing Theft of Petroleum Products or Oil and Gas Equipment

Sponsored by Sen. Zaffirini and Rep. Raymond

Creates a new offense under the Texas Penal Code for the theft of petroleum products or oil and gas equipment. A person would commit such an offense if the person unlawfully appropriates petroleum products with the intent to deprive the owner of the property by possessing, removing, delivering, receiving, purchasing, selling, moving, concealing, or transporting the petroleum product; or making or causing a connection to be made with, or drilling or tapping or causing a hole to be drilled or tapped in, a pipe, pipeline, or tank used to store or transport a petroleum product.

A person also would commit an offense if the person unlawfully appropriates oil and gas equipment with the intent to deprive the owner of the oil and gas equipment. For purposes of this offense, appropriation is unlawful if it is without the owner's effective consent. An offense would be classified as a felony, with the degree based upon the total value of the stolen petroleum products or oil and gas equipment.

Reorganization and Coordination

SB 347 - Clarifying Rules for Regional Water Planning Groups *Sponsored by Sens. Watson, Buckingham, and Rep. Phelan*

Provides statutory clarity that the business of regional water planning groups, including their committees and/or subcommittees, must be conducted in accordance with the Texas Open Meetings and Public Information Acts.

SB 726 - Modifying Election Date for Panhandle Groundwater Conservation District *Sponsored by Sen. Seliger and Rep. Price*

Amends the Panhandle Groundwater Conservation District's enabling legislation to change the election date for the board of directors to the uniform election date.

Elections for members of the board of directors of the Panhandle Groundwater Conservation District Number Three must be held on the uniform election date in May in each odd-numbered year.

SB 1305 - Repealing County Energy Transportation Reinvestment Zones Law *Sponsored by Sen. Nichols and Rep. Darby*

Repeals the statute that allows creation of County Energy Transportation Reinvestment Zones as the grant money has been awarded.

Utilities

HB 101 - Municipal Contracts for Reclaimed Water Facilities *Sponsored by Rep. Craddick and Sen. Seliger*

Amends current law relating to the development of and contracting for reclaimed water facilities in certain municipalities.

Qualifying municipalities may execute, perform, and make payments under a contract with any person for the development of a reclaimed water project and the provision of water from that project.

A contract entered into under this act is an obligation of the municipality that may not be made payable from ad valorem taxes. The contract is payable from a pledge of the revenues of the water system, sewer system, or combined system of the municipality, or the payments from the municipality are an operating expense of the water system, sewer system, or combined system of the municipality.

HB 294 – Receiver Appointment for a Water or Sewer Utility

Sponsored by Reps. Walle, Bohac, Dutton, Oliverson, Larson, and Sen. Garcia

Amends current law relating to the appointment of a receiver for a water or sewer utility.

At the request of the Public Utility Commission or the Texas Commission on Environmental Quality, the Attorney General must bring suit for the appointment of a receiver to collect the assets and carry on the business of a water or sewer utility that violates a final judgment issued by a district court in a suit brought by the Attorney General under the following chapter requirements:

- Water Rates and Services chapter;
- Chapter 7; or
- Chapter 341, Health and Safety Code.

HB 544 – Rural Water Assistance Fund Modifications

Sponsored by Reps. Anderson, Ashby, Fallon, Cospers, and Sen. Hinojosa

Authorizes the Texas Water Development Board to use money in the rural water assistance fund to contract for outreach, financial, planning, and technical assistance to assist rural political subdivisions in obtaining and using financing from any source for a purpose described under Sec. 15.994 Use of Fund in the state's water code, rather than to assist rural political subdivisions in obtaining and using financing from the fund.

HB 1083 – Reduced Water Utility Rates for Elderly Customers

Sponsored by Reps. Perez, Guillen, and Sen. Rodriguez

Authorizes a regulatory authority to establish reduced water utility rates funded by donations for the benefit of certain elderly customers.

Investor-owned utilities (IOUs) may voluntarily establish reduced rates for a minimal level of service to be provided solely to elderly customers aged 65 years or older. IOUs may establish a fund to receive donations to recover the costs of providing the reduced rates, but the IOU may not recover those costs through charges to the utility's other customer classes.

HB 1648 – Designating a Water Conservation Coordinator

Sponsored by Rep. Price and Sen. Seliger

Provides that the Texas Commission on Environmental Quality require retail public utilities to designate a person as a water conservation coordinator responsible for implementing the water conservation plan.

Retail public utilities are also required to identify, in writing, the water conservation coordinator to the Texas Water Development Board.

SB 321 – Creating the River Ranch and Riverside Municipal Utility Districts

Sponsored by Sen. Nichols and Rep. Bailes

Creates both the River Ranch Municipal Utility District and the Riverside Municipal Utility District. This bill amends current law relating to the creation of the River Ranch Municipal Utility District of Liberty

County and the Riverside Municipal Utility District of Liberty County, grants a limited power of eminent domain, provides authority to issue bonds, and provides authority to impose assessments, fees, or taxes.

SB 559 - Clarifying Language Governing Sale of Retail Electric Service
Sponsored by Sen. Hancock and Rep. Darby

Clarifies current policy that the miscellaneous gross receipts tax is imposed on a company that sells retail electric service to a customer located in a town or city with a population of 1,000 or more, regardless of where the company is located.

SB 735 - Periodic Rate Adjustment by and to Certain Transactions Involving Electric Utilities
Sponsored by Sen. Hancock; Rep. Cook and Rep. Thompson

Establishes a requirement for the Public Utility Commission of Texas (PUC) to periodically and efficiently review all electric utility rates, including a periodic adjustment of transmission rates to reduce rates as certain costs go down.

Further, the bill clarifies how taxes should be treated within utility rates and that consumers should share in the benefits that utilities gain through innovative corporate structures. The measure also allows PUC additional time to consider important utility mergers and different ownership and governance proposals.

Finally, the law allows the current periodic rate adjustment for distribution costs to become a permanent expedited recovery mechanism to reduce regulatory lag in the build out of distribution infrastructure.

SB 736 - GLO Electricity Sales
Sponsored by Sen. Hancock and Rep. Clardy

Declares that the General Land Office (GLO) must provide a report to the legislature by September 1, 2018, that examines the sale of electric power by GLO, such as the number of participants, aggregate rates, general contract terms, and the extent of the fiscal impact on the state by administering the program.

SB 904 - Establishing the Cresson Municipal Utility District
Sponsored by Sen. Birdwell and Rep. Burns

Creates the Cresson Municipal Utility District No. 1 of Hood County.

The bill grants a limited power of eminent domain, provides authority to issue bonds, and provides authority to impose assessments, fees, and taxes to provide for the creation, administration, powers, duties, operation, and financing of the district.

SB 1002 - Accounting Principles for Electric Utilities
Sponsored by Sen. Hancock and Rep. Murphy

Amends current law relating to accounting principles applicable to pension and other postemployment benefit expenses for electric utilities.

By deleting the word "operating" in two places in the Public Utility Regulatory Act, the Texas law is commensurate with the recent changes enacted by the Financial Accounting Standards Board. The

amendment does not result in any additional costs to consumers, and it provides electric utilities the ability to recover pension costs through their existing rate structure.

SB 1004 - Network Nodes

Sponsored by Sen. Hancock and Rep. Geren

Outlines requirements for placing network nodes in existing public rights-of-way (ROW), including transmission line ROW, and the potential for collocation.

SB 1145 - Clarifying Law on Deployment of Advanced Metering and Meter Information Networks

Sponsored by Sen. Nichols; Rep. Deshotel and Rep. Phelan

Amends current law relating to the deployment of advanced metering and meter information networks in certain non-Electric Reliability Council of Texas (ERCOT) areas.

The amendment clarifies that the surcharge and applicable customer protections adopted by the Public Utility Commission of Texas (PUC) related to the deployment of advanced metering systems would also apply to Entergy Texas.

Entergy Texas, if it chooses to deploy advanced meters and metering information networks, is allowed to do so in the same manner as authorized for ERCOT utilities. This bill requires and ensures that a deployment plan approved by PUC for Entergy Texas contains the same customer protections, data security provisions, and opt-out provisions provided by PUC for ERCOT utilities.

Environmental Legislation

Coastal Zone Management

SB 28 - Financing of Ports in the State

Sponsored by Sens. Creighton, Hinojosa, Kolkhorst, and Taylor; Reps. Deshotel, Cain, Perez, and Paul

Clarifies that Texas Mobility Funds can only be used for construction or improvements of public roadways that will enhance connectivity to ports.

The legislation also creates a ship channel improvement revolving fund to assist local sponsors in deepening and widening projects.

Emergency Management and Homeland Security

HB 1257 - Penalties Involving Property Used for Flood Control or Dams

Sponsored by Rep. Kacal and Sen. Birdwell

Amends the Penal Code to expand the conduct that constitutes a state jail felony criminal mischief offense

to include causing wholly or partly the impairment or interruption of property used for flood control purposes or a dam when the amount of pecuniary loss is less than \$30,000.

This bill takes effect on September 1, 2017.

SB 854 - Food and Beverage Funding in an Emergency

Sponsored by Sen. Nelson and Rep. Flynn

Amends existing law to expand the Texas Division of Emergency Management's current authority to use appropriated funds to purchase food and beverages for any personnel responding to a disaster or emergency and unable to leave due to the incident.

Environmental Health Services

HB 1619 - Modifying Penalties for Illegal Outdoor Burning

Sponsored by Rep. Shine and Sen. Buckingham

Lessens the first offense of burning items prohibited by the Texas Clean Air Act to a class C misdemeanor, enabling law enforcement to write a ticket as opposed to making an arrest.

In the event of a repeat offense or in the case of burning certain dangerous materials, such as chemicals, the violation carries a class B misdemeanor.

HB 1625 - Streamlining Abandoned Vessel Removal

Sponsored by Reps. G. Bonnen, D. Bonnen, and Sen. Hinojosa

Amends the Natural Resources Code to update the notice and hearing requirements, streamlining the methods by which the General Land Office (GLO) locates and informs the owner of an abandoned vessel or structure of the agency intent to remove and dispose of it. In the event that such an owner cannot be located, the GLO will be authorized to post notice on the vessel itself and on the agency's website for 10 consecutive days.

Not later than the 20th day after the date on which the notice is served, mailed, or posted, the person charged with the violation or a person claiming ownership of the facility, vessel, or structure may consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

Direct notice to the owner may be delivered after the vessel's removal in circumstances constituting an immediate threat to health, safety, or navigation. In any instance, the owners are reserved the opportunity to either consent to or challenge the vessel's removal under administrative procedure.

HB 3535 - Feral Hog and Coyote Control

Sponsored by Reps. Keough, Raymond, Faircloth, Krause, Bell, Dean, Gervin-Hawkins, Paul, Rinaldi, Uresti, and Perry

Authorizes qualified individuals to cull feral hog and coyote populations using a hot air balloon.

The bill states that a qualified landowner or landowner's agent, as determined by commission rule, may contract to participate as a hunter or observer in using a hot air balloon to take depredating feral hogs or

coyotes with proper permitting.

Hazardous Waste and Substance Management

SB 1541 – Permitting for Recycling Drill Cuttings

Sponsored by Sen. Estes; Rep. Lambert and Rep. King

Redefines “treatment” and “beneficial use” in a manner that will allow the Railroad Commission of Texas to prevent companies from qualifying for necessary permits unless they intend to effectively recycle their drill cuttings into legitimate commercial products that are at least as protective of human health and the environment as alternative products or methods of disposal.

Inland Water Resource Management and Conservation

HB 965 – Correctional Facility Compliance with Water Conservation Measures

Sponsored by Rep. Springer and Sen. Perry

Amends current law relating to the authority of a retail public water utility to require an operator of a correctional facility to comply with water conservation measures.

The bill authorizes a retail public utility (RPU) to require the operator of a correctional facility that receives retail water or sewer utility service from the RPU to comply with water conservation measures adopted or implemented by the RPU.

However, a correctional facility is not required to comply with a water conservation measure if the operator of the correctional facility submits to the RPU a written statement from Texas Department of Criminal Justice that states that the measure would endanger health and safety at the facility or unreasonably increase the costs of operating the facility.

HB 1573 – Personnel Requirements for Water Loss Auditors

Sponsored by Rep. Price and Sen. Creighton

Requires water loss audits be completed by a person trained to conduct the auditing. The Texas Water Development Board (TWDB) must make training on water loss auditing available without charge from TWDB’s website.

TWDB may provide training in person or by video or a functionally similar and widely available medium. Training must include comprehensive knowledge of water utility systems and terminology and any tools available for analyzing audit results.

SB 573 – Allocating Funds for Support and Research of Freshwater Fish Hatcheries and Habitats

Sponsored by Sen. Estes and Rep. Frullo

Expands the authorized uses of funds received from the sale of freshwater fish stamps and newly collectible freshwater fish stamps.

This measure allows funds collected to support management and research of freshwater fish hatcheries and habitats, improve freshwater fishing access, and support the administration and operation of fish hatcheries.

HB 1921 – Sunset Advisory Commission Recommendations for the Upper Colorado River Authority

Sponsored by Rep. Flynn and Sen. Nichols

Amends current law relating to the functions and territory of the Upper Colorado River Authority (UCRA), following the recommendations of the Sunset Advisory Commission.

The following changes, among others, were made with regard to UCRA:

- Requires that the training program provide the person with information regarding the law governing authority operations; the programs, functions, rules, and budget of the authority; the scope of and limitations on the rulemaking authority of the authority; the results of the most recent formal audit of the authority; the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, and other laws applicable to directors of a river authority in performing their duties; and any applicable ethics policies adopted by the authority or the Texas Ethics Commission.
- Requires the board to develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the general manager and staff of the authority.
- Requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any agenda item at board meetings and to set up a formal complaint process.

HB 2180 – Sunset Advisory Commission Recommendations for the Sulphur River Basin Authority

Sponsored by Rep. Flynn, Vandever, and Sen. Nichols

Enacts the recommendations of the Sunset Advisory Commission regarding the Sulphur River Basin Authority (SRBA).

The following changes, among others, were made with regard to SRBA:

- Institutes new leadership at SRBA by requiring the terms of all seven SRBA board members to expire on September 1, 2017.
- Repeals SRBA's unused authority to provide hydroelectric power, parks and recreation facilities, solid waste service, and forestation services.
- Requires SRBA, before voting on a project for which it will seek a permit, to obtain advice from the county judge of each county in which the project is proposed to be located.
- Changes SRBA's next sunset review date to 2029, the standard 12-year period.

Land Management and Conservation

SB 594 – Manual for the Appraisal of Qualified Open-space Land and Qualified Timber Land for Ad Valorem Tax Purposes

Sponsored by Sen. Creighton and Rep. Springer

Allows the Texas comptroller of public accounts to revise the manual for appraising qualified open-space land with the review and counsel of the Texas Department of Agriculture and to revise the manual for appraising qualified timberland with the review and counsel of the Texas A&M Forest Service.

The bill removes requirements that these manuals be approved by a majority vote of the Governor, Comptroller, Attorney General, Commissioner of Agriculture, and Commissioner of the General Land Office.

SB 1459 – Providing for the Removal of Unmanaged Citrus Trees

Sponsored by Sen. Hinojosa and Rep. Martinez

Amends current law relating to incentives to encourage landowners to destroy, remove, or treat citrus trees located in a pest management zone.

Reorganization and Coordination

HB 651 – Election Date for the Rusk County Groundwater Conservation District Board of Directors

Sponsored by Rep. Clardy and Sen. Hughes

Amends current law relating to the election date of the Board of Directors of the Rusk County Groundwater Conservation District. The bill changes the election date from the first Saturday in May of each even-numbered year to the uniform election date in November of each such year.

HB 886 – Election Date for the Hemphill County Underground Water Conservation District

Sponsored by Rep. King and Sen. Seliger

Modifies current law relating to the powers and election dates of the Hemphill County Underground Water Conservation District. Among other statutory changes, the Hemphill County Underground Water Conservation District's election date is changed to the uniform election date in May of each even-numbered year.

Solid Waste

HB 1584 – Solid Waste Management Extraterritorial Jurisdiction

Sponsored by Rep. King and Sen. Zaffirini

Authorizes the Webb County Commissioners Court, by rule, to regulate solid waste collection, handling, storage, and disposal by establishing a mandatory program within the extraterritorial jurisdiction of a

municipality if the municipality does not provide solid waste disposal services in that area.

The bill also protects contracts with private waste haulers and contracts to provide certain temporary solid waste disposal services to a construction site or project.

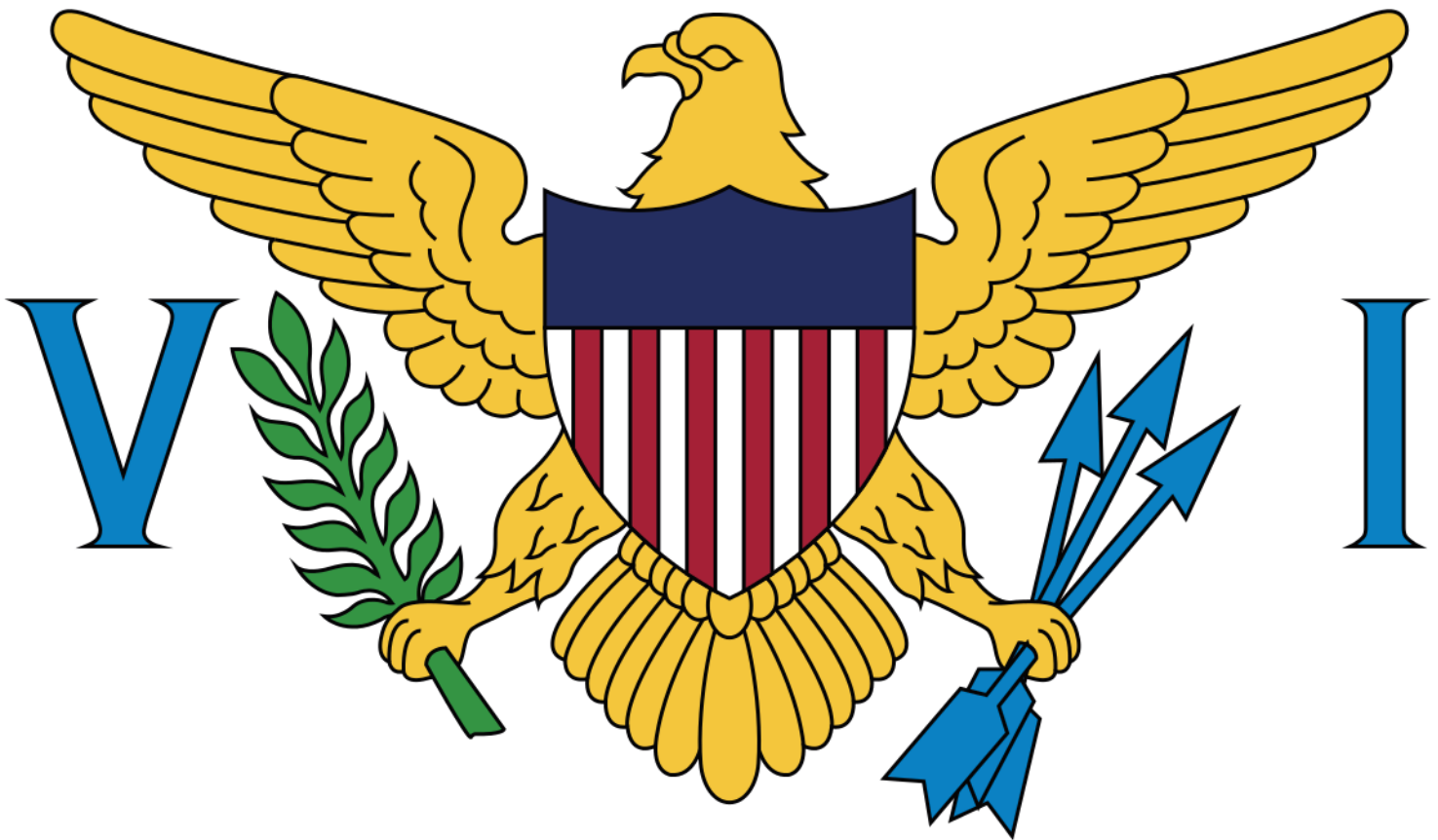
Finally, the legislation provides that these contract exemptions would not affect the authority of a governmental entity to pursue actions to address illegal dumping.

SB 1229 - Establishing Mandatory Solid Waste Disposal in Extraterritorial Jurisdiction
Sponsored by Sen. Menendez; Rep. Gervin-Hawkins and Rep. Reynolds

Enables the commissioners court of a county to establish a mandatory solid waste disposal program in an area of the county located within the extraterritorial jurisdiction of a municipality.

The commissioners court must contract for solid waste disposal services through a competitive bid process. Residents who live outside of these city limits will have access to the same trash pickup service as those in the city. The bill is only applicable in counties with over 1.5 million in population, 75 percent of whom are in a single municipality.

The law also creates a process for the commissioners court to require landlords with two or more leased dwellings to register with the county. The landlords must include in their lease agreement a provision to provide solid waste pickup.



U.S. VIRGIN ISLANDS

“ U.S. Virgin Islands adopted six energy and environmental bills since the 2016 Legislative Digest was published. Notably, B. No. 31-0379 prohibits all businesses from providing plastic checkout bags and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise. B. No 31-0256 requires that the Virgin Islands Water and Power Authority pay interest on customer deposits at a rate equal to the average prevailing interest rate paid by the banks. Per B. No 31-0473, the Government of the Virgin Islands may, develop and operate, or enter into a contract, including a public-private partnership agreement, to develop and construct, or operate, or develop, construct, and operate a bottled drinking water plant for distribution and sale of bottled drinking water in the Islands and export to places outside of the territory. ”

Energy Legislation

Utilities

B. No 31-0256 – Virgin Islands Water and Power Authority Interest Rate Adjustment
Sponsored by Sens. Graham, Roach, and Jackson

Requires that the Virgin Islands Water and Power Authority pay interest on customer deposits at a rate equal to the average prevailing interest rate paid by the banks.

B. No. 31-0421 – Waste Management Authority Appropriations
Sponsored by Sen. James

Provides a \$3 million appropriation for operating expenses of the Waste Management Authority from the Sewage System Fund of the Government of the Virgin Islands during the Fiscal Year October 1, 2016 through September 30, 2017.

Environmental Legislation

Coastal Zone Management

B. No. 31-0480 – Ratifying a Major Coastal Zone Permit
Sponsored by Sen. James

Ratified Major Coastal Zone Permit No. CZX-42-09 (L&W) issued to the Virgin Islands Port Authority to authorize construction of a cargo facility at the Gordon A. Finch Molasses Pier facility on the St. Croix south shore.

Environmental Health Services

B. No. 31-0404 Anti-litter Appropriations
Sponsored by Sen. James

Provides a \$6 million appropriation for the Anti-litter and Beautification Fund for the fiscal year ending September 30, 2017.

Inland Water Resource Management and Conservation

B. No 31-0473 - Virgin Islands Bottled Water Plan Act of 2016
Sponsored by Sen. Liburd and Sen. Forde

Establishes that the Government of the Virgin Islands may, develop and operate, or enter into a contract, including a public-private partnership agreement, to develop and construct, or operate, or develop, construct, and operate a bottled drinking water plant for distribution and sale of bottled drinking water in the Virgin Islands and export to places outside of the Virgin Islands.

The Bureau of Economic Research must conduct a study to determine whether establishing a public/private partnership for a bottled water plant operation is advisable. The Bureau of Economic Research must consider as part of the study, among other things, an analysis and identification of the environmental effects of the operation of the bottled water plant.

Solid Waste

B. No. 31-0379 - Regulation of Plastic Bags

Sponsored by Sen. James and Sen. Young

Prohibits all businesses from providing plastic checkout bags and non-recyclable paper bags to their customers at the point of sale for the purpose of transporting groceries or other merchandise. Nothing in this section precludes a business from making available to customers, with or without charge, at the point of sale:

- Reusable bags, compostable plastic bags, or recyclable paper bags for the purpose of transporting groceries or other merchandise; or
- Non-recyclable paper bags to protect or transport prepared foods, beverages, or bakery goods.

Any Business violating any provision of this subchapter or any regulation adopted pursuant to this subchapter is subject to:

- An order to discontinue the distribution of bags prohibited by this bill; and
- A civil fine of not less than \$500 nor more than \$1,000 for each day of violation.



VIRGINIA

“ Virginia adopted 36 energy and environmental bills during the 2017 legislative session. SB 1393 requires Dominion Virginia Power and Appalachian Power to conduct a community solar pilot program for retail customers. The program will authorize the participating utility to sell electric power to subscribing customers under a voluntary companion rate schedule, and the utility will generate or purchase the electric power from eligible generation facilities selected for inclusion in the pilot program. Under natural gas and petroleum bills, HB 1671/SB 1289 exempts any natural gas utility serving fewer than 2,000 residential customers and fewer than 350 commercial and industrial customers from the provision that limits the amount of investment that a natural gas utility may make in qualifying projects to one percent of its net plant investment that was used in establishing base rates in its most recent rate case. ”

Energy Legislation

Alternative Energy Development

HB 1760 – Recovery of Costs for Hydroelectric Facilities Through Rate Adjustment *Sponsored by Dels. Kilgore, Pillion, and Morefield*

Authorizes an investor-owned electric utility to petition the State Corporation Commission for approval of a rate adjustment clause for recovery of the costs of one or more pumped hydroelectricity generation and storage facilities that utilize associated on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth.

The measure provides that the requirement that a utility demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process applies only to certain generation facilities.

SB 1226 – Trade Secrets in Solar Service Agreements *Sponsored by Sen. Edwards*

Excludes from the mandatory disclosure provisions of the Freedom of Information Act proprietary information, voluntarily provided by a private business under a promise of confidentiality from a public body, used by the public body for a solar services agreement. The bill requires the private business to specify the records for which protection is sought before submitting them to the public body and to state the reasons why protection is necessary. The law also allows a solar services agreement contractor or provider to designate specific provisions in a solar services agreement as proprietary information not subject to disclosure and authorizes a city to withhold from disclosure such information provided by a private entity in connection with a franchise, lease, or use under a solar services agreement.

SB 1393 – Community Solar Pilot Programs *Sponsored by Sens. Wagner, Wexton, Ebbin, and McPike*

Requires Dominion Virginia Power and Appalachian Power to conduct a community solar pilot program for retail customers. A pilot program will authorize the participating utility to sell electric power to subscribing customers under a voluntary companion rate schedule, and the utility will generate or purchase the electric power from eligible generation facilities selected for inclusion in the pilot program. An eligible generation facility is an electrical generation facility that:

- Exclusively uses energy derived from sunlight;
- Is placed in service on or after July 1, 2017;
- Is not constructed by an investor-owned utility but is acquired by an investor-owned utility through an asset purchase agreement or is subject to a power purchase agreement under which the utility purchases the facility's output from a third party; and
- Has a generating capacity not exceeding two megawatts (MW), subject to an exception.

Pilot programs will have a three-year duration unless renewed or made permanent by appropriate legislation. The measure requires an investor-owned utility to select eligible generating facilities for

dedication to its pilot program through a request for proposals (RFP) process. The minimum generating capacity of the eligible generating facilities in Appalachian Power's pilot program is 0.5 MW and in Dominion's pilot program is 10 MW. The maximum generating capacity of the eligible generating facilities in Appalachian Power's pilot program is 10 MW and in Dominion's pilot program is 40 MW.

The measure also establishes a procedure through which an investor-owned utility may increase the generating capacity of facilities in its pilot program above the amount most recently approved by the State Corporation Commission. Further, the measure provides that an investor-owned utility may recover pilot program costs that are not recovered through the voluntary companion rate schedule through variable-output contracts with participating third parties. A subscribing customer's usage above the amount subscribed for the voluntary companion rate schedule must be billed under the customer's applicable standard rate.

The bill also authorizes a utility consumer services cooperative to conduct a pilot program and gives the cooperative flexibility in designing its program and voluntary companion rate schedule. The measure declares that the participation of retail customers in a pilot program is in the public interest and that the voluntary companion rate schedules approved are necessary in order to acquire information that is in furtherance of the public interest. The commission is required to approve the recovery of pilot program costs that it deems to be reasonable and prudent, the pilot program design, the voluntary companion rate schedule, and the portfolio of participating generating facilities. Commission review or approval is not required for individual participating generating facilities, agreements, sites, or RFPs.

The legislation provides that an approved voluntary companion rate schedule must not be considered a tariff for electric energy provided 100 percent from renewable energy. An enactment clause directs investor-owned utilities, prior to submitting a proposal for a pilot program, to examine, in cooperation with representatives of relevant governmental, nonprofit, and for-profit entities, options to facilitate the subscribing by low-income customers to the utility's pilot program. Another enactment clause requires participating utilities to disclose to subscribing customers the cost difference between the voluntary companion rate schedule and rate the customer would pay if it were not a subscriber.

SB 1395 - Small Renewable Energy Projects Permitting *Sponsored by Sen. Wagner and Sen. Montgomery*

Provides that certain small renewable energy projects proposed, developed, constructed, or purchased by a public utility if the project's costs are not recovered from Virginia jurisdictional customers under base rates, a fuel factor charge, or a rate adjustment clause or a utility aggregation cooperative, are eligible for a permit by rule and are exempt from environmental review and permitting by the State Corporation Commission.

The measure also specifies that a small renewable energy project must be eligible for permit by rule if it is proposed, developed, constructed, or purchased by a person that is not a regulated utility. The measure exempts a small renewable energy project for which the Department of Environmental Quality has issued a permit by rule from the requirement that it obtain a certificate of public convenience and necessity for the construction or operation of the project.

Finally, the law increases the maximum rated capacity of solar and wind facilities that qualify as small renewable energy projects from 100 megawatts to 150 megawatts.

Coal and Minerals

HB 2200 - Assessment of Coal Surface Mining Reclamation Fund Tax Revenues *Sponsored by Del. O'Quinn*

Repeals the July 1, 2017, expiration date from 2014 legislation that raised the target balance of the Coal Surface Mining Reclamation Fund from \$1.75 million to \$20 million and altered the method of deducting certain expenditures from the Fund.

SB 1316 - Overweight Permits for Trucks Hauling Asphalt *Sponsored by Sen. Carrico*

Adds trucks hauling asphalt produced from gas or oil wells to those vehicles whose owner or operator may obtain an overweight permit from the commissioner of the Department of Motor Vehicles to operate in counties that impose a severance tax on gases or a severance license tax on coal producers.

SB 1398 - Coal Combustion Residuals Unit Water Pollution *Sponsored by Sen. Surovell and Sen. Chase*

Requires the owner or operator of a coal combustion residuals unit (CCR unit) to identify water pollution and address corrective measures to resolve it, evaluate the clean closure of the CCR unit by recycling the ash for use in cement or moving it to a landfill, and demonstrate the long-term safety of the CCR unit.

The measure also requires the owner or operator of each CCR unit to transmit its assessment to the Department of Environmental Quality (DEQ) and other agencies or legislative committees by December 1, 2017. The director of DEQ is required to delay the issuance of a permit to close any CCR unit until May 1, 2018, or the effective date of any legislation adopted during the 2018 Regular Session of the General Assembly that addresses the closure of CCR units, whichever occurs later.

Energy Efficiency

HB 1565 - Creating Green Development Zones *Sponsored by Del. Webert and Del. Keam*

Authorizes localities to create green development zones that provide certain tax incentives and regulatory flexibility for up to 10 years to a business operating in an energy-efficient building or to a business that produces products used to reduce negative impact on the environment.

HB 1712 - Energy Performance-based Contract *Sponsored by Dels. Minchew, Villanueva, Bell, Boysko, Carr, Krizek, Lindsey, and Lopez*

Authorizes a public body, defined as a contracting entity, to purchase energy conservation or operational efficiency measures from an energy performance-based contract entered into by another contracting entity pursuant to the Energy and Operational Efficiency Performance-Based Contracting Act even if the entity did not participate in the request for proposals if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities.

The measure permits the use of cooperative procurement for energy conservation or operational efficiency measures in such instances. The bill provides, however, that energy conservation or operational efficiency measures do not include roof replacement projects.

SB 990 – Electric Energy Consumption Reduction Goal Reporting

Sponsored by Sen. Dance

Directs the Department of Mines, Minerals and Energy, in consultation with the staff of the State Corporation Commission, to report annually, commencing no later than December 15, 2018, on the progress the Commonwealth is making toward meeting the goal adopted in 2007 of reducing the consumption of electric energy by retail customers by the year 2022 by an amount equal to 10 percent of the amount of electric energy consumed by retail customers in 2006.

The bill requires the reports to be made to the General Assembly, the Governor, and the Governor’s Executive Committee on Energy Efficiency.

HB 2431 – Electric Vehicle Charging Stations on School Property

Sponsored by Del. Bulova and Del. LeMunyon

Permits any school board to locate and operate retail fee-based electric vehicle charging stations on school property, provided that the use of each such station during the school day is restricted to school board employees, students, and authorized visitors. Each station must also be accompanied by appropriate signage that provides reasonable notice of the restriction.

Natural Gas and Petroleum

HB 1671/SB 1289 – Qualified Projects of Natural Gas Utilities

Sponsored by Del. Morefield; Sen. Chafin and Sen. Carrico

Exempts any natural gas utility serving fewer than 2,000 residential customers and fewer than 350 commercial and industrial customers in the year in which the utility makes an investment for qualifying projects from the provision that limits the amount of investment that a natural gas utility may make in qualifying projects to one percent of its net plant investment that was used in establishing base rates in its most recent rate case.

The existing exemption to the one percent cap was enacted in 2013 and applies to any natural gas utility serving fewer than 1,000 residential customers and fewer than 250 commercial and industrial customers in such year. Legislation enacted in 2012 established a mechanism for natural gas utilities to recover the eligible infrastructure development costs of a qualifying project through future rates. A qualifying project is an economic development project for which, among other things, the utility has received a binding commitment from the developer or occupant of the proposed project regarding capacity or a financial guaranty from the developer or state or local government in the amount of at least 50 percent of the estimated investment to be made in the proposed project.

HB 2169/SB 886 – Sunset Date for Local Gas Severance Tax
Sponsored by Dels. Pillion, Kilgore, and O’Quinn; Sen. Chafin

Extends the sunset date from January 1, 2018, to January 1, 2020, for the local gas severance tax dedicated to the local Coal and Gas Road Improvement Fund, the Virginia Coalfield Economic Development Fund, and water, sewer, and natural gas systems and lines.

SB 910 – Sampling and Replacing Contaminated Wells
Sponsored by Sen. Stuart

Increases from 750 feet to 1,320 feet the radius of surface lands around gas wells on which gas well operators have a right to enter and obtain water samples from water wells and are required to replace contaminated water supplies.

Reorganization and Coordination

SB 1258 - Virginia Solar Energy Development and Energy Storage Authority
Sponsored by Sen. Ebbin

Continues the Virginia Solar Energy Development Authority and renames it the Virginia Solar Energy Development and Energy Storage Authority.

The measure expands the purposes of the authority to include positioning the Commonwealth as a leader in research, development, commercialization, manufacturing, and deployment of energy storage technology. The powers of the authority are expanded to include the following duties:

- Promoting collaborative efforts among Virginia’s public and private institutions of higher education in research, development, and commercialization efforts related to energy storage;
- Monitoring relevant developments nationally and globally; and
- Identifying and working with the Commonwealth’s industries and nonprofit partners.

Finally, the size of the authority is expanded from 11 to 15 members.

Utilities

HB 1597 – Stormwater Storage Waiver of Charges
Sponsored by Del. Webert

Requires any locality establishing a stormwater management utility to provide a full or partial waiver of charges for a person whose approved stormwater management plan indicates that the stormwater produced by his property is retained and treated on site.

HB 2291 – Rate Adjustment for Costs of Modifications to Nuclear Generation Facilities
Sponsored by Del. Kilgore and Del. Villanueva

Authorizes an investor-owned electric utility to petition the State Corporation Commission for approval of a rate adjustment clause for recovery of the costs of a system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for, or the operating life of, nuclear generation facilities.

The measure limits the scope of the requirement that a utility demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process to certain new generation facilities. The legislation provides that a utility's costs incurred in extending the combined operating license for, or the operating life of, a nuclear generation facility, which costs are prudently incurred prior to the commission's entry of a final order on the petition, must be deferred on the books and records of the utility until the later of the entry of a final order in the proceeding or until the implementation of any applicable approved rate adjustment clauses.

Further, the bill prohibits a utility, prior to January 1, 2020, from recovering through a rate adjustment clause certain costs related to extensions of the combined operating license for or the operating life of a nuclear generation facility. An enactment clause provides that costs recovered through the utility's rates for generation and distribution services as of January 1, 2017, that are associated with a utility's existing nuclear generation facilities are not recoverable through a specified rate adjustment clause.

HB 2303/SB 1394 – Small Agricultural Generators Sales to Utilities
Sponsored by Dels. Minchew, Hugo, Landes, Lindsey, and Yancey; Sens. Wagner, Edwards, and McPike

Establishes the parameters of a program under which small agricultural generators may sell the electricity generated from a small agricultural generating facility to its utility.

Effective July 1, 2019, enrollment by eligible agricultural customer-generators in an existing net energy metering program conducted by an electric cooperative will cease, though a cooperative's customers who were participating as eligible agricultural customer-generators before that date are allowed to remain in the net metering program for not more than 25 years.

A "small agricultural generator" is defined in the measure as a customer who operates an electrical generating facility as part of an agricultural business, which generating facility, among other conditions, has a capacity of not more than 1.5 megawatts, uses renewable energy as its total source of fuel, has a capacity that does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history, uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility, and is a Public Utility Regulatory Policies Act qualifying small power production facility.

The program for small agricultural generators requires the generator to enter into a power purchase agreement with its supplier to sell all of the electricity generated at a rate not less than the supplier's State Corporation Commission-approved avoided cost tariff for energy and capacity. The program also provides for utilities to recover distribution service costs and costs incurred to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause if the utility has a commission-approved RPS plan and rate adjustment clause or, if the utility does not have a commission-approved RPS rate adjustment clause, then the costs will be recoverable through the supplier's fuel adjustment clause or through the utility's cost of purchased power.

Finally, the measure directs the commission to conduct a single docketed proceeding to implement the provisions of this measure.

SB 932 - Conveyance of Utility Easements
Sponsored by Sen. Favola and Sen. Black

Exempts from the public hearing requirement prior to disposal of real property by a locality the conveyance of utility easements related to transportation projects.

SB 1189 - Water and Sewer Services Liens
Sponsored by Sen. Edwards and Sen. Hanger

Separates Code provisions regarding water and sewer services provided to lessees or tenants of real property from Code provisions regarding water and sewer services provided to owners of real property. The bill removes a locality's authority to waive a required written authorization by an owner for water or sewer services provided by a locality to a lessee or tenant. A copy of the lease between the lessee or tenant and the owner is acceptable authorization.

The law provides that no lien can be placed on the property of an owner when a lessee or tenant has delinquent fees for water or sewer charges until the locality has made reasonable collection efforts and practices, including applying the security deposit to the payment of the outstanding balance and either filing for the Setoff Debt Collection Program or placing the account with a debt collection service. A lien against the lessee or tenant ranks on a parity with a lien for unpaid taxes. When a locality does not require a security deposit from a lessee or tenant to obtain water and sewer services, the locality must waive its lien rights against the property owner.

The bill also authorizes the locality or authority to provide a partial credit where excessive water and sewer charges result from an intentional cause. A locality or authority cannot deny service to a new lessee or tenant when there are unpaid fees for services to a previous lessee or tenant unless a lien against the property owner is placed on the property.

SB 1418 - Costs of Pumped Hydroelectricity Generation and Storage Facilities
Sponsored by Sens. Chafin, Cosgrove, Montgomery, Obenshain, Stuart, Black, DeSteph, McDougle, Peake, Sturtevant, Carrico, Dunnavant, Newman, Reeves, Vogel, Chase, Hanger, Norment, Stanley, and Wagner

Authorizes an investor-owned electric utility to petition the State Corporation Commission for approval of a rate adjustment clause for recovery of the costs of one or more pumped hydroelectricity generation and storage facilities that utilize associated on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth.

The measure provides that the requirement that a utility demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process does not apply to these generation and storage facilities. The construction of these generation and storage facilities is declared to be in the public interest, and in determining whether to approve such facility, the commission is directed to liberally construe the provisions of Title 56.

SB 1473 - Underground Distribution Lines

Sponsored by Sen. Saslaw

Declares that the replacement of any subset of an investor-owned electric utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest.

The measure also provides that there be a rebuttable presumption that:

- The conversion of such facilities will provide local and system-wide benefits;
- The new underground facilities are cost beneficial; and
- The costs associated with the new underground facilities are reasonably and prudently incurred.

An enactment clause provides that the measure applies to any applications pending with the State Corporation Commission regarding new underground facilities on or after January 1, 2017.

Another enactment clause directs an investor-owned incumbent electric utility to provide written notice to any cable operator of a cable television system that has attached its facilities to its poles that will be replaced in a project to underground existing overhead distribution tap lines not less than 90 days prior to relocating the utility's overhead distribution lines. The clause also establishes a procedure for negotiating a common shared underground easement.

Environmental Legislation

Coastal Zone Management

HB 2055 - Rural Coastal Virginia Community Enhancement Authority

Sponsored by Dels. Hodges, Bloxom, Peace, and Ransone

Establishes the Rural Coastal Virginia Community Enhancement Authority, consisting of the 12 counties within the Northern Neck, Middle Peninsula, and Accomack-Northampton planning districts, if approved by the respective governing bodies.

The purpose of the authority is to serve as a regional economic development body and represents a partnership of the Commonwealth, the planning districts, and the 12 counties of the coastal region. A board of up to 15 members will govern the authority. The authority may seek and approve loans and solicit donations, grants, and any other funding from the Commonwealth, the federal government, and regional, local government, and private entities to carry out its purposes, powers, and duties.

Also, the authority will accomplish the following:

- Assist the region in obtaining necessary job training or employment-related education, leadership and civic development, and business development, especially entrepreneurship for the coastal region;
- Provide special assistance to distressed and underdeveloped counties within the coastal region; and

- Fund demonstration projects and conduct research, evaluations, and assessments of the coastal region's assets and needs.

SB 1205 - Commercial Fishing Vessel Classification

Sponsored by Del. Lewis

Classifies commercial fishing vessels and any property permanently attached to such vessels as a separate class of property for the purpose of local personal property tax.

As a result of SB 1205, localities may levy a tax on commercial fishing vessels at a rate different (but no higher) than the rates of tax and assessment applicable to the general class of tangible personal property.

Environmental Health Services

HB 1793 - Adding Exemption to Burn Ban

Sponsored by Del. Fariss

Exempts fires set for the prevention of damage to orchards or vineyards by frost or freezing temperatures for the duration of the ban on fires from February 15 through April 30 yearly.

Inland Water Resource Management and Conservation

HB 1562 - Authorizing Grants for Dam Modifications

Sponsored by Dels. Cole, Lingamfelter, Cline, and Fariss

Authorizes the director of the Department of Conservation and Recreation to disburse moneys from the Dam Safety, Flood Prevention and Protection Assistance Fund in the form of grants or loans to a local government that owns a dam, to a local government for a dam located within the locality, or to a private entity that owns a dam in order to protect public safety and welfare. The grants can be used for the design, repair, and safety modifications of dams identified in safety reports.

In addition to grants and loans, the department is authorized to use the fund for various studies and other allowances that help the department meet its Dam Safety and Floodplain Management obligations.

HB 2076/SB 1127 - State Water Control Board Regulations

Sponsored by Del. Wilt; Sen. Obenshain

Directs the State Water Control Board to adopt regulations requiring that all final plan elements, specifications, or calculations whose preparation requires a license in engineering, architecture, soil science, or a related profession be signed and sealed by a licensed professional.

The bill requires the regulations to be effective no later than July 1, 2018, and exempts them from certain provisions of the Administrative Process Act.

SB 1203 – Waterfront Development Areas

Sponsored by Del. Lewis

Authorizes localities, by ordinance, to establish a working waterfront development area and grant certain incentives and regulatory flexibility to private entities for the development of working waterfronts in such area.

Land Management and Conservation

HB 2016/SB 1207 – Electronic Personal Delivery Devices Operation

Sponsored by Dels. Villanueva, Davis, and Bagby; Sen. DeSteph

Allows for the operation of electric personal delivery devices on the sidewalks and shared-use paths and across roadways on crosswalks in the Commonwealth unless otherwise prohibited by a locality. The bill directs that such devices are not considered vehicles and are exempt from motor carrier provisions.

SB 963 – Land Preservation Tax Credit Extension

Sponsored by Sen. Hanger

Extends to taxable year 2017 the \$20,000 limit on the amount that a taxpayer may claim per year under the land preservation tax credit. The bill retains the \$50,000 limit for each subsequent taxable year.

Reorganization and Coordination

HB 1774 – Commonwealth Center for Recurrent Work Group

Sponsored by Del. Hodges

Directs the Commonwealth Center for Recurrent Flooding Resiliency to convene a work group to consider alternative methods of stormwater management in rural Tidewater localities. The bill provides that the group is to be facilitated by the Virginia Coastal Policy Center at William and Mary Law School and is to include representatives of institutions of higher education, state agencies, local governments, private industry, and other groups.

The bill measure provides that the work group is to review and consider the creation of rural development growth areas, the development of a volume credit program, the payment of fees to support regional best management practices, and the allowance of the use of stormwater in highway ditches to generate volume credits.

Further, the law requires the Center to report the results of the work group's examination to the Governor and the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources by January 1, 2018, which is the date the work group provisions of the bill are set to expire.

The legislation also delays from July 1, 2017, to July 1, 2018, the effective date of new stormwater laws enacted during the 2016 Session of the General Assembly.

HB 2009 – Third-Party Management of Stormwater and Erosion

Sponsored by Del. Hodges

Authorizes the hiring of certified third-party professionals to administer any or all aspects of a program for the management of stormwater and erosion, including plan review and inspection but not including enforcement, on behalf of an erosion and stormwater management program authority, which is the State Water Control Board or a locality approved by the State Water Control Board, or a stormwater management program authority, which can be a locality, a state entity, or another type of entity.

HB 2152/SB 992 - Hopewell Water Renewal Commission Reorganization

Sponsored by Del. Aird; Sen. Dance

Changes the membership of the Hopewell Water Renewal Commission from a total of eight members appointed by the city council, five of whom are nominees of five manufacturers, to up to nine members, three of whom must be a member of the city council, the city manager, and the city attorney, and the remainder of whom must be appointed by the city council from nominees each submitted by a manufacturer who must provide a capital contribution in an amount determined by the city council.

The bill removes the city council's authority to provide for additional nominees to the commission by manufacturers not involved in planning assistance and requires the commission to assist in the maintenance and expansion of the city's regional wastewater treatment facility.

SB 1311 – Hampton Roads Sanitation District Expansion

Sponsored by Sen. Norment

Adds the County of Surry, excluding the Town of Claremont, to the Hampton Roads Sanitation District territory. The legislation also adds a resident of Surry County as a potential appointee for the Hampton Roads Sanitation District Commission member who under current law must be a resident of the City of Suffolk or Isle of Wight County.

Solid Waste

HB 1600 – Odor Reduction and Reporting at Certain Landfill

Sponsored by Del. Fariss and Del. Morris

Directs the Department of Environmental Quality and the Region 2000 Services Authority to continue to reduce the odor issues at the landfill operated by the authority in Campbell County and to report on their efforts to the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources by November 1, 2017.

The bill also requires the authority to connect certain parts of its landfill gas collection system to the existing collection system when its engineers advise it that the connections will operate efficiently.

Water Quality and Pollution Control

HB 1619 – State Water Control Board Permit Procedures *Sponsored by Dels. Bulova, Lingamfelter, Herring, and Kory*

Directs the State Water Control Board to incorporate into the general permit procedures by which it will, every 10 years beginning in 2020, accomplish the following:

- Review load allocations to determine whether changes in the use of a facility have halted or reduced nutrient discharges; and
- Determine, prior to reissuing the general permit, the need for reallocations based on a variety of factors, including changes in treatment technologies and land use.

SB 1398 - Coal Combustion Residuals Unit Water Pollution *Sponsored by Sen. Surovell and Sen. Chase*

Requires the owner or operator of a coal combustion residuals unit (CCR unit) to identify water pollution and address corrective measures to resolve it, evaluate the clean closure of the CCR unit by recycling the ash for use in cement or moving it to a landfill, and demonstrate the long-term safety of the CCR unit.

The measure also requires the owner or operator of each CCR unit to transmit its assessment to the Department of Environmental Quality (DEQ) and other agencies or legislative committees by December 1, 2017.

The director of DEQ is required to delay the issuance of a permit to close any CCR unit until May 1, 2018, or the effective date of any legislation adopted during the 2018 Regular Session of the General Assembly that addresses the closure of CCR units, whichever occurs later.



WEST VIRGINIA

“ West Virginia adopted 13 energy and environmental bills during the 2017 legislative session. SB 687 provides that funds be paid from Special Reclamation Water Trust Fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites. The measure removes the criteria from evaluation for the narrative water quality standard that it “supports a balanced aquatic community that is diverse in species composition.” A Joint Legislative Committee on Flooding and the State Resiliency Office is established by HB 2935. The Joint Legislative Committee on Flooding will study all activities relating to flood protection and must make recommendations to the Joint Committee on Government and Finance that offer solutions to reduce the reality and threat of future loss of life and property damages associated with flooding. ”

Energy Legislation

Alternative Energy Development

HB 2453 - Modifying Eligible Applicants for Hemp Cultivation

Sponsored by Dels. Eldridge, Butler, and Summers

Expanding the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp. Previously, only agents of the Department of Agriculture and institutions of higher learning were allowed to apply for hemp cultivation permits.

Coal and Minerals

SB 687 - Safety and Water Quality Requirements in Mining

Sponsored by Sens. Smith, Sypolt, Blair, Boley, Cline, Ferns, Mullins, Facemire, Jeffries, and Woelfel

Providing that funds be paid from Special Reclamation Water Trust Fund to assure a reliable source of capital and operating expenses for the treatment of discharges from forfeited sites.

The measure removes the criteria from evaluation for the narrative water quality standard that it “supports a balanced aquatic community that is diverse in species composition.”

The bill also removes the minimum bond requirements related to certain reclamation work and provides for changes to the method of plugging abandoned gas wells where a coal operator intends to mine through the well.

The bill eliminates the Board of Miner Training, Education and Certification, the Mine Inspectors’ Examining Board and the Mine Safety Technology Task Force, and transfers the duties from those boards and task force to the Board of Coal Mine Health and Safety.

The measure directs that the Office of Miners’ Health, Safety and Training revise state rules related to diesel equipment operating in underground mines and providing that an automated external defibrillator unit be required first-aid equipment located in certain areas of an underground coal mine. The requirements for preblast surveys for surface mining operations and certain other blasting activities is modified to apply within one-half mile of the site.

Natural Gas and Petroleum

HB 2811 - Aboveground Storage Tank Act Exemptions

Sponsored by Delegates Hanshaw, Hartman, Kelly, Boggs, Miley, Shott, Nelson, Anderson, Westfall, and Hamrick

Clarifies that tanks having a capacity of 210 barrels or less that contain oil or brine water are not regulated under the Aboveground Storage Tank Act.

SB 505 – Horizontal Well Reclamation
Sponsored by Sen. Smith and Sen. Sybolt

Provides a five-year reclamation period following completion of the construction of a well pad for well pads designed for multiple natural gas horizontal wells.

Reorganization and Coordination

HB 3037 – Division of Energy Reorganization
Sponsored by Del. Anderson

Removes the Division of Energy as an independent agency and redesignates the Division of Energy as the Office of Energy within the Development Office of the Department of Commerce. The bill also designates the Secretary of Commerce, or his or her designee, as Chair of the West Virginia Public Energy Authority Board.

Utilities

HB 3096 – Local Review and Control Over the Operation and Setting Rates, Fees and Charges for Water and Sewer Utilities
Sponsored by Del. Espinosa

Modifies rules for public notice of contemplated water and sewage rates, fees, and charges to require a statement that a change in rates, fees and charges is being considered, the time, date and location of the hearing of the board at which the change will be considered and that the proposed rates, fees and charges are on file at the office of the District for review during regular business hours. Such notice must be printed on, or mailed with, the monthly billing statement, or provided in a separate mailing.

The public service district, or any of its customers, if dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits provided the following:

- Any complaint filed hereunder must be filed within 30 days of the county commission’s final action approving, modifying or rejecting such rates, fees and charges, or the expiration of the 45 day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges; and
- The rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, must remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.

The measure provides time limits for the filing of requests for investigation pertaining to political subdivisions of the state providing separate or combined water and/or sewer services and having at least four thousand five hundred customers and annual combined gross revenues of \$3 million or more and specifying that the Public Service Commission must resolve such investigation requests within 120 days.

The bill also provides that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district.

Environmental Legislation

Environmental Health Services

HB 2303 - Increasing Criminal Penalties for Littering

Sponsored by Dels. Phillips, Westfall, Folk, Sobonya, Overington, Paynter, Eldridge, and R. Miller

Clarifying that no person may place, deposit, dump, throw or cause to be placed, deposited, dumped or thrown any litter on the private property of another.

The bill increases the penalties for the following categories of littering:

- In an amount not exceeding one hundred pounds in weight or twenty-seven cubic feet in size;
- In an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size but less than five hundred pounds in weight or two hundred sixteen cubic feet in size;
- In an amount greater than five hundred pounds in weight or two hundred sixteen cubic feet in size or any amount which had been collected for commercial purposes;
- Second or subsequent violations for littering in an amount not exceeding one hundred pounds in weight or twenty- seven cubic feet in size; and
- Second or subsequent violations for littering in an amount greater than one hundred pounds in weight or twenty-seven cubic feet in size but less than five hundred pounds in weight or two hundred sixteen cubic feet in size.

SB 25 - Farm to Food Bank Tax Credit

Sponsored by Sens. Karnes, Rucker, and Sypolt

Provides an incentive for farmers to donate to food banks in the state by providing a tax credit for their donations.

The amount of the credit is equal to ten percent of the value of the donated edible agricultural products, but not to exceed \$2,500 during a taxable year or the total amount of tax imposed, whichever is less, in the year of donations. No more than \$200,000 of tax credits may be allocated to the Department of Agriculture in any fiscal year. The department must allocate the tax credits in the order the donation forms are received.

Land Management and Conservation

HB 2109 - Relating to the West Virginia Land Reuse Agency Authorization Act
Sponsored by Dels. Rohrbach, Hornbuckle, and Lovejoy

Amends the West Virginia Land Reuse Agency Authorization act in order to define ‘municipal land banks’ and establishing their right to acquire land.

A municipal land bank is a department or agency of a municipality, or an entity lawfully created by a municipality, engaged in activities designed to address issues related to vacant, abandoned and tax-delinquent real property, including but not limited to, the purchase, rehabilitation, improvement or sale of such properties for the purpose of eliminating blight and returning those properties to productive use. The bill provides that a municipal land bank may have the right of first refusal to buy any tax delinquent property with an assessed value of \$75,000 or less, within municipal limits, for taxes owed and any related fees before the tax delinquent property is placed for public auction at tax sales.

The bill also grants owners of adjacent real property a right to purchase a tax delinquent property from a land reuse agency or municipal land bank within 120 days of receiving notice for an amount equal to the amount paid for the property by the land reuse agency or municipal land bank.

Reorganization and Coordination

HB 2935 – Establishing a Joint Legislative Committee on Flooding
Sponsored by Speaker Armstead; Dels. Hanshaw, Ambler, Hill, Bogg, and Baldwin

Establishes a Joint Legislative Committee on Flooding and the State Resiliency Office.

The Joint Legislative Committee on Flooding will study all activities relating to flood protection and must make recommendations to the Joint Committee on Government and Finance, which offer solutions to reduce the reality and threat of future loss of life and property damages associated with flooding.

The State Resiliency Office is established within the Development Office in the Department of Commerce as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Coordinating Officer designated by the Governor for a particular event.

The Chair of the State Resiliency Office must report quarterly to the Joint Legislative Committee on Flooding and prepare an annual report to the committee no later than December 31 of each year.

HB 2949 – Streamlining Repair and Replacement Process for the Division of Natural Resources
Sponsored by Dels. Hamilton, Eldridge, Lewis, Ambler, and R. Romine

Exempts specified Division of Natural Resources’ contracts for some replacement, repair or design for repairs to revenue-producing facilities and related infrastructure where protecting public safety or public enjoyment and use of the facilities from review and approval requirements of the Division of Purchasing.

SB 113 - Department of Environmental Protection Authorizations

Sponsored by Sen. Maynard

Authorizes the Department of Environmental Protection to promulgate legislative rules relating to the following:

- Awarding of matching grants for local litter control programs;
- Alternative emission limitations during startup, shutdown and maintenance operations;
- Permits for construction, modification, relocation and operation of stationary sources of air pollutants, notification requirements, administrative updates, temporary permits, general permits, permission to commence construction and procedures for evaluation;
- Permits for construction and major modification of major stationary sources for the prevention of significant deterioration of air quality;
- Standards of performance for new stationary sources;
- Control of air pollution from hazardous waste treatment, storage and disposal facilities;
- Emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; and
- Voluntary remediation and redevelopment.

Water Quality and Pollution Control

HB 2506 - Permit Limit Calculations for Drinking Water and Allowing Overlapping Mixing Zones

Sponsored by Delegates Zatezalo, G. Foster, Kessinger, Summers, Atkinson, Ambler, Phillips, Westfall, and Miley

Establishes that for the implementation of human health criteria for the protection of drinking water, the Secretary of the Department of Environmental Protection must calculate permit limits using the harmonic mean flow and may determine the point of compliance for a permittee's discharge pursuant to the mixing zone provisions of the Legislative rule entitled Requirements Governing Water Quality Standards.

The Secretary may allow mixing zones to overlap but not to go beyond a point one-half mile upstream of a public water supply. At locations where mixing zones are allowed to overlap, the amended bill requires permittees to indicate on their required signage an indication that mixing zones overlap in a particular vicinity.

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