



Preliminary Legislative Digest

2018





Transcending Boundaries

2018 Legislative Digest

A Guide to State Energy and Environment
Legislation in the South

July 2018

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 2018 Preliminary Legislative Digest is compiled each year in collaboration with member states and territories.

We would like to thank the Board members, legislative research staff, and state administrative officials and their staffs as well as many other SSEB friends for assisting us in compiling and reviewing the Digest.

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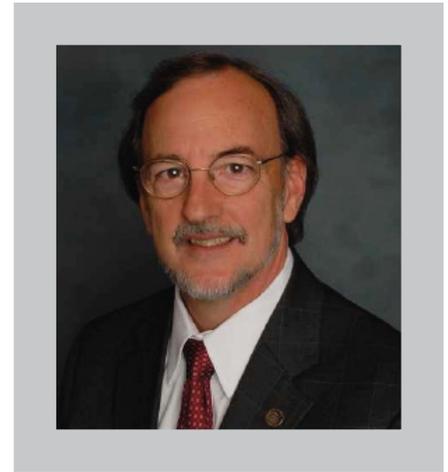
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Introduction

Representative Randy Davis

It is my privilege to present the 2018 Preliminary Legislative Digest, a compendium of energy and environmental legislation enacted by the Board's 18 member states and territories during the 2018 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 July 15, 2018.



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. In total, 143 energy related bills were passed this year by our member states and territories.

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 136 pieces of legislation.

When examining legislation passed state-by-state it is not unusual to observe certain trends or themes. For example, this year several states passed legislation pertaining to stormwater management and emergency planning and response for floods. **Virginia** and **Maryland** both passed bills defining gray water and procedures for its use. **Florida, Maryland, Mississippi, and West Virginia** all passed legislation relating to flood, hurricane, and other natural disaster response.

Similarly, **Virginia** passed several acts related to stormwater management, including HB 1308 authorizing any rural Tidewater locality to require that a licensed professional retained by the applicant submit a set of plans and supporting calculations for land-disturbing activities that disturb 2,500 square feet or more but less than one acre of land.

Two states, **Kentucky** and **West Virginia**, both approved resolutions urging federal policymakers to support identified legislation and other bills, resolutions, or policies advancing the development of an Appalachian Storage Hub. Southern States Energy Board passed a resolution at last year's annual meeting calling for prioritizing construction of the Appalachian Storage Hub.

Louisiana passed a law amending the definition of "critical infrastructure" to include oil and gas facilities. The measure criminalizes damage to a critical infrastructure and provides for penalties. This bill is similar to other critical infrastructure protection laws being passed around the country, including in Iowa, Idaho, and **Oklahoma**.

Similarly, **Missouri** passed a bill establishing the Nuclear Power Plant Security Guard Act, which specifies the levels of physical force, including deadly force, an armed nuclear security guard may use against another person at a nuclear power plant or within a structure or fenced yard of a nuclear power plant to prevent certain dangerous actions by the other person.

Many of our members passed bills covering energy efficiency as well. **North Carolina** passed a law requiring the Building Code Council to provide an exemption from energy efficiency codes for residential garages. **Oklahoma**

established a bill expanding the definition of “energy conservation measures” to include water-metering devices. In the **U.S. Virgin Islands**, a law was passed appropriating the sum of \$500,000 to the Economic Development Authority for the purpose of “energy efficient” retrofitting of the Industrial Park on the island of St. Croix.

As we have seen in recent years, oil and natural gas infrastructure and development bills are popular within our member states. **West Virginia**, for example, provided an exception to waste and trespass for certain oil and natural gas use and development to encourage the efficient economic development of oil and natural gas resources. **Tennessee** passed legislation allowing utility districts to enter into contracts or arrangements relating to natural gas with public corporations. In my state of **Alabama**, we passed a resolution urging the federal government to provide for continued and expanded access in the Gulf of Mexico in the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program. Similarly, **Georgia** passed legislation meant to regulate the exploration and extraction of oil and gas and established an Oil and Gas Board. **Mississippi** passed an act extending the repealers on provisions establishing a reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells until July 2023.

Several member states enacted legislation relating to the authority and powers of their Public Service Commission (PSC). **South Carolina** passed legislation prohibiting the PSC from issuing an order for requests made pursuant to the Base Load Review Act until ninety days after the South Carolina General Assembly adjourns Sine Die for the 2018 Legislative Session, and they also passed a bill redefining the terms “imprudent” and “prudent” and listed the items the PSC must consider in determining whether an action or decision is deemed prudent. **Maryland** repealed the authority of the PSC to allow the use of a master meter without submeters in a residential multiple occupancy building.

Finally, the **Puerto Rico** legislature passed an historic bill that creates the “Puerto Rico Electric System Transformation Act.” The bill declares that any partnership agreement or sale agreement will be subject to the energy public policy and regulatory framework. For these purposes, a working group will be created, which will be responsible for preparing and recommending for the corresponding approvals the energy public policy and regulatory framework. The working group may receive advice and recommendations from the Southern States Energy Board and the Department of Energy, and any other person, entity or organization that the working group believes would be beneficial. Each of the Governor and the Presidents of the legislative bodies will suggest to the Southern States Energy Board four organizations for that entity to select the members of the Blue-Ribbon Task Force.

There is much more contained within the digest than can be summarized here. I thank you for taking time to read this digest, and I hope that it provides a good overview of the current legislative landscape of energy and environmental issues in our member states and territories.

About Representative Randy Davis

Representative Randy Davis was first elected to the Alabama House of Representatives in November 2002 and is serving his fourth term. Representative Davis was first appointed to the Southern States Energy Board in 2008 and assumed the role of Vice Chair in 2017.

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

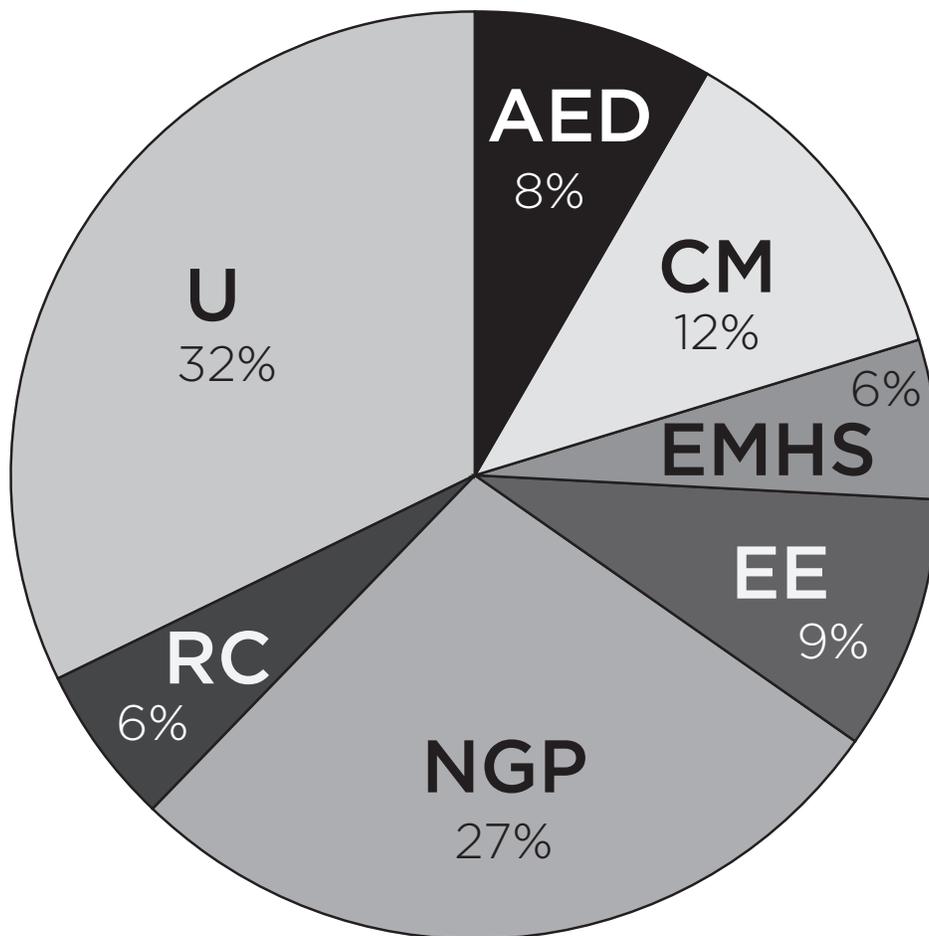
AQPC	Air Quality and Pollution Control
CZM	Coastal Zone Management
EMHS	Emergency Management and Homeland Security
EHS	Environmental Health Services
HWSM	Hazardous Waste and Substance Management
IWRMC	Inland Water Resource Management and Conservation
LMC	Land Management and Conservation
RW	Radioactive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

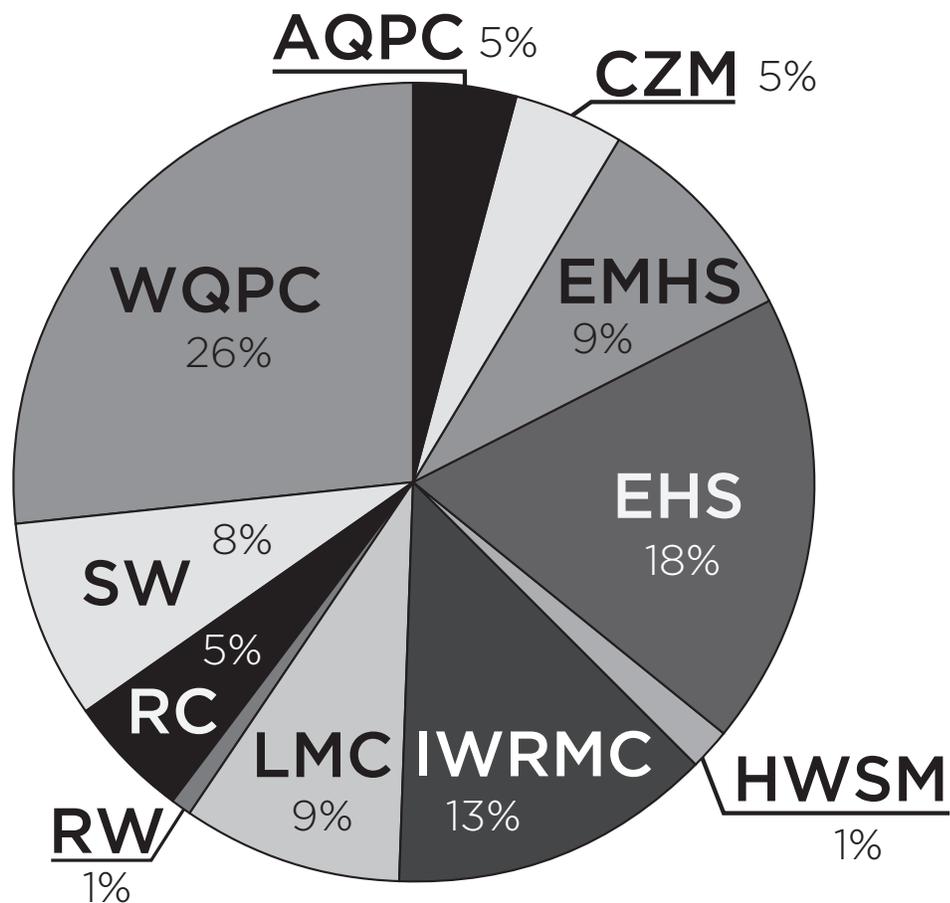
2018 Energy Legislation Matrix

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
CM				X	X	X			X	X	X	X		X			X	X
EMHS				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			X	X
RC	X				X	X	X											
U	X		X	X	X	X	X	X	X	X	X	X	X	X			X	X



2018 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				
CZM					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	X
LMC	X		X	X			X	X		X							X	X
RW									X									
RC	X		X	X			X	X			X							
SW	X			X	X	X		X		X	X		X					
WQPC	X			X	X	X	X	X	X	X	X			X			X	X





ALABAMA

“ *Alabama adopted 17 energy and environmental bills during the 2018 legislative session. Notably, SB 289 prohibits the operation of certain equipment within a specified distance from high voltage overhead conductors of electricity and requires the posting of warning signs. SB 33 removes the requirement that the Alabama Joint Legislative Committee on Energy Policy develop the Alabama Energy Plan, however the committee is required to recommend courses of action to the Governor and Legislature to address Alabama’s energy challenges.* **”**

Energy Legislation

Energy Efficiency

SB 125 - Modifying Rules for Truck Platoons

Sponsored by Sens. Whatley, McClendon, Ward, Scofield, Dial, Allen, Singleton, Figures, Orr, Holley, Shelnett, Glover, Albritton, Beasley, Dunn, Sanders, Stutts, Chambliss, Williams, Holtzclaw, Livingston, and Reed

Exempts trailing trucks in a truck platoon from the rules and restrictions regulating follow distance if the truck platoon is engaged in electronic brake coordination and any other requirements imposed by the Alabama Department of Transportation.

SJR 101 - Resolution to Adopt Daylight Savings Time as the New Standard

Sponsored by Sen. Glover

Expresses the sentiment of the legislative body and of the people represented by the Alabama Legislature that the United States should permanently adopt what is now Daylight Saving Time as the new standard for time in the United States year round.

The resolution states that “some researchers have determined that remaining in Daylight Saving Time year round will save significant amounts of energy in November and February.”

This resolution was delivered to the legislative leaders in all other states urging them to pass resolutions with essentially similar wording.

Natural Gas and Petroleum

HB 40 - Relating to Weight Limits for Vehicles Powered by Natural Gas

Sponsored by Rep. South

Modifies existing law so that any motor vehicle, if operated by an engine fueled primarily by natural gas, may exceed any vehicle weight limit, up to a maximum gross vehicle weight of 82,000 pounds, by an amount that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system.

This law applies on federal interstate highways to the weight limit increases for vehicles using an Environmental Protection Agency (EPA) -certified natural gas engine or an EPA-approved conversion unit installed on the vehicle that allows the vehicle to operate primarily on compressed natural gas or liquefied natural gas.

SB 134 - State Oil and Gas Board Continuance

Sponsored by Sen. Bussman

Provides for the indefinite continuance of the State Oil and Gas Board while also removing the board from the state’s sunset review process.

SB 239 - Appropriating Gas and Motor Fuel Tax Funds in Lauderdale County

Sponsored by Sen. Melson

Requires that all of the proceeds collected from the excise tax on gasoline and motor fuel in Lauderdale County be used to pay off securities for the funding of the Shoals Economic Development Project.

SB 361 - Appropriating Gas and Motor Fuel Tax Funds in Colbert County

Sponsored by Sen. Stutts

Requires that all of the proceeds collected from the excise tax on gasoline and motor fuel in Colbert County be used to pay off securities for the funding of the Shoals Economic Development Project.

SJR 136 - Resolution Favoring Expansion of the National Outer Continental Shelf Oil and Gas Leasing Program

Sponsored by Sen. Allen

Urges the federal government to provide for continued and expanded access in the Gulf of Mexico in the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program.

The bill further urges the federal government to continue revenue sharing with Gulf Coast states and support congressional efforts to lift the existing revenue sharing cap currently in place for gulf producing states.

Reorganization and Coordination

SB 33 - Repealing Requirements for an Alabama Energy Plan

Sponsored by Sens. Ward and Whatley

Removes the requirement that the Alabama Joint Legislative Committee on Energy Policy develop the Alabama Energy Plan, however the committee is required to recommend courses of action to the Governor and Legislature to address Alabama's energy challenges.

The bill authorizes the committee to only receive federal grants and other funds related to energy initiatives. It also reduces the number of committee members from 17 to 13 and provides that the committee must meet at least once every six months either via telephone conference, video conference, or similar communications provided that a majority of a quorum is physically present at the meeting location presented in the notice.

The measure also removes the authorization for the creation of a Legislative Energy Policy Office by the committee.

Utilities

SB 145 - Providing for Natural Gas Service Expansion

Sponsored by Sen. Livingston

Amends the Constitution of Alabama, relating to Jackson County, to authorize the Cumberland Mountain Water and Fire Protection Authority to provide natural gas service in the county within the authority's service area.

SB 289 - Restrictions When Working with High Voltage Electricity Overhead

Sponsored by Sen. Ward

Prohibits the operation of certain equipment within a specified distance from high voltage overhead conductors of electricity and requires the posting of warning signs on certain equipment concerning its proximity to overhead high-voltage electric lines. Further, the statute provides criminal penalties for violations.

Environmental Legislation

Emergency Management and Homeland Security

SB 43 - Alabama Disaster Recovery Program Rules and Procedures Development

Sponsored by Sen. Albritton

Requires the Alabama Disaster Recovery Program Committee to develop and implement rules and procedures for:

- Providing financial assistance to individuals who suffer a loss as a result of an event that would allow a county or municipality to seek reimbursement from the Alabama Disaster Recovery Fund or to private, nonprofit facilities eligible for assistance under the federal Disaster Relief and Emergency Assistance Act;
- Reimbursing the Alabama Emergency Management Agency (EMA), or a local government, for costs associated with implementing mitigation projects or programs that meet the requirements established by the committee;
- Reimbursing the day-to-day administrative costs incurred by the Alabama EMA, or a local emergency management program; and
- Allowing funds in the Disaster Recovery Fund to be made available as federal matching funds for any of the program's purposes.

This bill also provides that the committee must meet to establish the rules required for the expansion of the Disaster Recovery Program not later than 90 days following enactment of a funding source for the Alabama Disaster Recovery Fund by the Legislature.

Environmental Health Services

HB 302 - Oyster Collection Fees

Sponsored by Rep. Sessions

Provides for a new bulk oyster tag for a fee of \$1. In addition, this act provides a new license for oyster aquaculture sites for \$250 annually.

The bill also allows collected oysters to be placed in sacks as well as containers, in accordance with the most current National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, as adopted by the State Department of Public Health.

Inland Water Resource Management and Conservation

SB 192 - Local Soil and Water Conservation District Allocations

Sponsored by Sen. Dial

Removes the requirement for a minimum allocation to local soil and water conservation districts made by the Agriculture and Conservation Development Commission and provides further for the consideration of the local soil and water district needs when allocations are made.

Land Management and Conservation

SB 192 - Local Soil and Water Conservation District Allocations

Sponsored by Sen. Dial

Removes the requirement for a minimum allocation to local soil and water conservation districts made by the Agriculture and Conservation Development Commission and provides further for the consideration of the local soil and water district needs when allocations are made.

Reorganization and Coordination

HB 358 - Environmental Management Commission Membership Modifications

Sponsored by Rep. South

Changes the qualifications for one member of the Environmental Management Commission of the Alabama Department of Environmental Management to require the member to be an individual who is certified by the National Ground Water Association certification program or be a professional geologist.

Solid Waste

SB 50 - Creating the Alabama Abandoned and Derelict Vessel Fund

Sponsored by Sen. Pittman

Establishes the Alabama Abandoned and Derelict Vessel Fund to be administered by Alabama Law Enforcement Agency, into which reimbursements from the seizure, removal, transportation, storage, and disposal of such vessels will be deposited.

Water Quality and Pollution Control

SB 180 - Public Water System Notification Requirements

Sponsored by Sen. Bussman

Requires public water systems to notify the State Health Officer prior to initiating any permanent change in the fluoridation status of its water system.



ARKANSAS

“Arkansas did not have a 2018 Regular Session and did not pass any legislation during the Fiscal Session falling under the scope of energy or environment topics in the Digest.”



FLORIDA

“ Florida adopted 18 energy and environmental bills during the 2018 legislative session. This year, HB 7043/SB 1402 authorized the Department of Environmental Protection to assume administration of Florida’s wetland regulatory program. HB 1211/SB 1612 created “Ellie’s Law,” which provides stipulations for operating an airboat for hire on the waters of the state. Falling under the category of Natural Gas and Petroleum, legislators passed HB 7087, which delays the start of increased penalties against unlicensed natural gas fuel retailers from January 1, 2019 to January 1, 2024. ”

Energy Legislation

Energy Efficiency

HB 841 - Electronic Vehicle Charging Stations at Condominiums

Sponsored by Rep. Moraitis

Asserts that a community association may not prohibit a condominium unit owner from installing an electronic vehicle charging station.

Natural Gas and Petroleum

HB 7087 - Delaying Penalties Against Unlicensed Natural Gas Fuel Retailers

Sponsored by Rep. Renner

Delays the start of increased penalties against unlicensed natural gas fuel retailers from January 1, 2019 to January 1, 2024.

With the exception of a state or federal agency or a political subdivision licensed under this legislation, each person who operates as a natural gas fuel retailer must report monthly to the Department of Revenue and pay a tax on all natural gas fuel purchases beginning January 1, 2024.

HR 319/SR550 - Modifies Regulation of Drilling in the Gulf of Mexico

Sponsored by Reps. Ponder and Rodrigues; Sen. Broxson

Pronounces the following:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- Drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida House of Representatives supports an indefinite extension of the restriction, specified in the Gulf of Mexico Security Act (GOMESA), on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and indefinite extension of the GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

SB 740 - Allowing Continued Classification of Damaged Lands

Sponsored by Sen. Stargel

Allows certain lands classified as agricultural for tax purposes to continue to be classified as such for five years after being damaged by a natural disaster. The assessment applies retroactively to lands damaged by a natural disaster that occurred on or after July 1, 2017.

The bill also accomplishes the following:

- Transfers responsibility for liquefied petroleum gas (LPG) insurance issues to the Commissioner of Agriculture instead of the Governor of Florida;
- Consolidates and reduces the number of LPG categories and expands the license period from one to three years;
- Eliminates the original and renewal LPG fee structure and replaces it with a new revenue neutral fee structure;
- Updates the dollar threshold for required reporting of LPG accidents from \$1,000 to \$3,000; and
- Requires an LPG dealer to give a five day notice before discontinuing service or rendering a consumer's LPG equipment inoperable.

Utilities

HB 405 - Applying Exclusions for Forthcoming Rights-of-Way and Corridors

Sponsored by Reps. Williamson and Payne

Provides that the exclusion for work done on established rights-of-way applies to established rights-of-way and corridors and to rights-of-way and corridors to be established.

The measure indicates that the exclusion for the creation of specified types of property rights applies to the creation of distribution and transmission corridors.

The legislation also establishes the standard to be used in authorizing variances in a site certification under the Florida Electrical Power Plant Siting Act (PPSA) and under the Electric Transmission Line Siting Act (TLSA). Further, the bill provides that the PPSA and the TLSA do not affect in any way the Public Service Commission's exclusive jurisdiction to require transmission lines to be located underground.

HB 703 - Modifying Procedures for Surplus Land Sales

Sponsored by Rep. Burgess

Changes the sale of surplus lands procedures followed by water management districts (WMD) to create efficiencies in the process by:

- Requiring a WMD to publish notice of its intent to sell surplus property on its website in addition to a newspaper and to publish notice of its intent to sell surplus property at least 30 days, but not more than 360 days, before the WMD approves a sale;
- Authorizing a WMD to sell land valued at \$25,000 or less to an adjacent property owner, rather than giving such property owners the opportunity to purchase the property before the rest of the general public;
- Requiring a WMD electing to offer for sale the parcel to adjacent property owners to publish the notice of intention to offer to sell land valued at \$25,000 or less to such owners in the newspaper only one time in the county where the land is located;
- Defining the term "adjacent property owners" as those owners whose property abuts the parcel; and

- Removing the requirement that a WMD accept sealed bids and either sell the property to the highest bidder or reject all offers 30 days after publication of notice if the WMD does not sell the land to the adjacent property owner. Instead, if the WMD does not sell the parcel to an adjacent property owner, the bill authorizes a WMD to sell the parcel valued at \$25,000 or less to the general public for the highest price obtainable at any time.

HB 705 - Public Record Exemptions for Water Management District Land

Sponsored by Rep. Burgess

Creates a public record exemption for written valuations of water management districts (WMD) land determined to be surplus, related documents used to form (or pertaining to) the valuation, and written offers to purchase such surplus land.

The public record exemption expires two weeks before the WMD first considers the contract or agreement regarding the purchase, exchange, or disposal of the surplus land. The measure authorizes a WMD to disclose the confidential and exempt information to potential purchasers under certain conditions. The bill provides for repeal of the exemption on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

HB 1423 - Revisions Related to the Tohopekalliga Water Authority

Sponsored by Rep. La Rosa

Makes numerous changes to the Tohopekalliga Water Authority. Specifically, the bill:

- Revises the Authority's legislative findings.
- Provides a definition for "partial term" and amends the definition of "pledged funds."
- Reduces the number of members of the Board of Supervisors (Board) from six to five.
- Requires the Polk County Board of County Commissioners to appoint Board Supervisor No. 5, and provides that at the expiration or termination without replacement of an interlocal agreement Board Supervisor No. 5 must be appointed by joint resolution of the remaining general purpose local governments.
- Provides that, by resolution, additional members of the Board may be appointed by Polk County or an additional general-purpose local government that has entered into an agreement with the Authority.
- Revises expiration dates for Board members and provides for staggered three-year terms after that.
- Provides that in the event there are only four voting Board members due to the expiration or termination of any interlocal agreement, and the vacancy remains unfilled for 60 days due to the failure of the respective general purpose local government governing body to appoint a successor, the Governor must appoint a successor to serve only for the unexpired term and until a successor is duly appointed.
- Requires Board members to elect a Chairperson, Vice Chairperson, Secretary, and other officers of the Authority annually.
- Removes all Board compensation and expense reimbursements.

- Provides the Authority with the additional power to contract by interlocal agreement with the state or local governments relating to stormwater management.
- Revises the Authority’s power to increase rates.
- Requires the Board to adopt or update a master plan at least once every four years after 2018.

HB 7095 - Public Record Exemptions for Confidential Business Information

Sponsored by Rep. McClain

Reenacts the public record exemption, which provides that proprietary confidential business information held by an electric utility that is subject to public record requirements in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources is confidential and exempt from public record requirements.

The legislation also inserts a cross-reference to provide a specific definition for the term “trade secrets,” which are protected under the public record exemption.

Environmental Legislation

Emergency Management and Homeland Security

HB 7087 - Tax Rate Modifications for Commercial Property Rentals

Sponsored by Rep. Renner

Provides a tax rate reduction for tax on commercial property rentals.

This bill includes new, extended, or expanded sales tax exemptions for certain generators for nursing homes and assisted living facilities, for certain purchases of agriculture-related fencing materials and building materials for repair of damage from Hurricane Irma, and for certain equipment and electricity used in the production of aquaculture products.

Also, this measure provides tax relief for certain property damaged by hurricanes or tropical storms and for certain citrus processing equipment idled due to citrus greening or Hurricane Irma.

SB 740 - Allowing Continued Classification of Damaged Lands

Sponsored by Sen. Stargel

Allows certain lands classified as agricultural for tax purposes to continue to be classified as such for five years after being damaged by a natural disaster. The assessment applies retroactively to lands damaged by a natural disaster that occurred on or after July 1, 2017.

The bill also accomplishes the following:

- Transfers responsibility for liquefied petroleum gas (LPG) insurance issues to the Commissioner of Agriculture instead of the Governor of Florida;
- Consolidates and reduces the number of LPG categories and expands the license period from one to three years;

- Eliminates the original and renewal LPG fee structure and replaces it with a new revenue neutral fee structure;
- Updates the dollar threshold for required reporting of LPG accidents from \$1,000 to \$3,000; and
- Requires an LPG dealer to give a five day notice before discontinuing service or rendering a consumer's LPG equipment inoperable.

Environmental Health Services

HB 491 - Including Avian Animals as Commercially Farmed Animals

Sponsored by Rep. Roth

Amends current statute to include avian class animals to the category of commercially farmed animals. It also extends the mandatory \$10,000 fine to theft of commercially farmed animals and bee colonies, in addition to aquaculture species raised at a certified aquaculture facility.

SB 168 - Establishing Pilot Program on Invasive Species Impacts

Sponsored by Sen. Steube

Requires the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to mitigate the impact of priority invasive species on lands or waters of the state. The FWC is required to submit a report of its recommendations and findings regarding the pilot program by January 1, 2021, to the Governor and the Legislature.

Additionally, the FWC is required to identify nonnative animals that threaten the state's wildlife habitats. A pet dealer must implant any such animal identified by the FWC with a passive integrated transponder tag before that animal is sold, resold, or offered for sale.

Inland Water Resource Management and Conservation

HB 1211/SB 1612 - Establishing Ellie's Law Providing Airboat Requirements

Sponsored by Reps. Abruzzo and LaRosa; Sen. Rader

Creates "Ellie's Law," which provides that, beginning July 1, 2019, a person may not operate an airboat for hire on waters of the state without the following onboard:

- A photographic identification card;
- Proof of either:
 - Completion of a Fish and Wildlife Conservation Commission (FWC) -approved boater education course that meets the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators, or
 - A captain's license issued by the United States Coast Guard;
- Proof of successful completion of an FWC-approved airboat operator course that meets the minimum standards established by FWC rule; and

- A certificate of successful course completion in cardiopulmonary resuscitation and first aid.

HB 7035/SB 670 - Confirming Proposed Consumptive Use Rule

Sponsored by Rep. McClain; Sens. Baxley and Bradley

Ratifies the St. Johns River Water Management District's (SJRWMD) proposed consumptive use rule, which will be incorporated into the SJRWMD's "Applicant's Handbook, Consumptive Uses of Water."

The measure serves no other purpose and will not be codified in the Florida Statutes. The bill specifies that after becoming law, its enactment and effective dates will be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate.

Land Management and Conservation

HB 1173/SB 1622 - Modifications to Procedures for Acquiring Land for Government Use

Sponsored by Rep. Raschein; Sen. Flores

Makes several changes to the acquisition procedures for lands used for governmental purposes by:

- Expanding the intent of the Apalachicola Bay Area of Critical State Concern (ACSC) designation;
- Authorizing the Board of Trustees to purchase lands within an ACSC to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an ACSC without using its normal acquisition procedures using any funds available;
- Authorizing the director of the Division of State Lands, when purchasing lands immediately, to use alternative valuation techniques to estimate the value of such parcels in certain instances;
- Authorizing the Board of Trustees to utilize alternative valuation techniques to purchase lands within an ACSC to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an ACSC in certain instances;
- Authorizing each land authority in an ACSC to contribute tourist impact tax revenues to the county or the county's housing authority to purchase any land in the county for the construction, redevelopment, or preservation of affordable housing in an ACSC and to pay certain costs related to affordable housing projects;
- Adding projects that mitigate the effects of natural disasters and floods in developed areas to the criteria and numeric performance measures the Acquisition and Restoration Council must consider when evaluating proposed Florida Forever projects; and
- Requiring urban greenways and open space projects undertaken by the Florida Communities Trust to provide recreational opportunities, promote community interaction, and connect communities. The projects may also serve dual functions as flow ways or temporary storage areas to mitigate natural disasters and floods in developed areas.

Reorganization and Coordination

HB 1093 - Dissolving the Loxahatchee Groves Water Control District

Sponsored by Rep. Willhite

Dissolves the Loxahatchee Groves Water Control District as an independent special district and transfers it to the Town of Loxahatchee Groves as a dependent special district. The bill repeals all special acts of the district. The district's provisions will become ordinances of the town.

HB 7043/SB 1402 - Wetland Regulatory Program Administration Changes

Sponsored by Rep. Raschein; Sen. Simmons

Authorizes the Department of Environmental Protection (DEP) to assume administration of Florida's wetland regulatory program by:

- Granting DEP rulemaking authority to adopt rules necessary to satisfy federal requirements to administer the program;
- Requiring when state law conflicts with federal requirements, the federal requirements would apply to the state administered section 404 permits;
- Incorporating by reference the exemptions from federal permitting requirements found in the Clean Water Act and rules for the state administered section 404 permits;
- Exempting state administered section 404 permits from state permitting decision deadlines;
- Limiting state administered section 404 permits to a period of no more than five years;
- Providing that upon timely, complete application for reissuance, a state administered section 404 permit does not expire until DEP acts on the application; and
- Authorizing DEP to delegate administration of the state administered program and to review, modify, revoke, or rescind any state administered section 404 permit issued by a delegated entity to ensure consistency with federal law.



GEORGIA

“ Georgia adopted 19 energy and environmental bills during the 2018 legislative session. Notably, HB 792 dealt with the regulation of solid waste management as it relates to fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers. HB 205 gives the authority to create an Oil and Gas Board and requires the promulgation of rules and regulations related to drilling and extraction. Finally, SB 355 modifies applicability of certain provisions relating to the recovery of financing costs for the construction of a nuclear generating plant so that a utility must recover the costs from its customers. ”

Energy Legislation

Coal and Minerals

HB 792 - Fees Imposed on Privately Owned Solid Waste Disposal Facilities

Sponsored by Reps. Rogers, Rhodes, Efstration, and Nix

Codifies that when a municipal solid waste disposal facility is owned by private enterprise, the host local government is authorized and required to impose a surcharge of \$2.50 per ton or volume equivalent, in addition to any other negotiated charges or fees which must be imposed by and paid to the host local government for the facility effective July 1, 2019.

The measure also states that when a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of \$1.00 per ton or volume equivalent until June 30, 2025, and a surcharge of \$2.00 per ton or volume equivalent effective July 1, 2025, for fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers, in addition to any other negotiated charges or fees which must be imposed by and paid to the host local government for the facility.

At least 50 percent of the surcharges collected must be expended for the following purposes:

- To offset the impact of the facility;
- Public education efforts for solid waste management, hazardous waste management, and litter control;
- The cost of solid waste management;
- Administration of the local or regional solid waste management plan;
- Repair of damage to roads and highways associated with the facility;
- Enhancement of litter control programs;
- Groundwater and air monitoring and protection associated with the location of the facility;
- Remediation and monitoring of closed or abandoned facilities within the jurisdiction of the host local government;
- Infrastructure improvements associated with the facility;
- Allocation of such funds in any fiscal year to a reserve fund designated for use for the above purposes in future fiscal years; and
- For the acquisition of property and interests in property adjacent to or in reasonable proximity to the facility upon a determination by the host local government that such acquisition will serve beautification, environmental, buffering, or recreational purposes such as will ameliorate the impact of the facility.

Emergency Management and Homeland Security

HB 779 - Establishes a Board of Homeland Security

Sponsored by Reps. Powell, Rogers, Rhodes, and Jasperse

Creates a Board of Homeland Security that will, for administrative purposes only, be attached to the Georgia Emergency Management and Homeland Security Agency.

The board must advise the Governor on:

- The implementation of the homeland security strategy by state and local agencies and provide specific guidance and counsel for helping those agencies implement the strategy; and
- All matters related to the planning, development, coordination, and implementation of initiatives to promote the homeland security strategy of the state.

The board must develop a state-wide homeland security strategy that improves the state's ability to:

- Protect against, respond to, and recover from domestic terrorism and other homeland security threats and hazards; and
- Mitigate loss of life and property by lessening the impact of future homeland security threats and hazards.

The board's homeland security strategy must coordinate homeland security activities among and between local, state, and federal agencies and the private sector and must include specific plans for:

- Intelligence gathering, analysis, and sharing;
- Reducing the state's vulnerability to domestic terrorism and other homeland security threats and hazards;
- Protecting critical infrastructure, public transportation systems, and state or government facilities;
- Protecting the state's ports and airports;
- Detecting, deterring, and defending against domestic terrorism and cyber, biological, chemical, and nuclear terrorism;
- Positioning equipment, technology, and personnel to improve the state's ability to respond to homeland security threats and hazards; and
- Providing the Georgia Information Sharing and Analysis Center certain forms of authority to aid the Georgia Emergency Management and Homeland Security Agency in implementing the homeland security strategy of this state.

Using technological resources to:

- Facilitate the interoperability of governmental technology resources, including data, networks, and applications;
- Coordinate the warning and alert systems of state and local agencies;

- Incorporate multidisciplinary approaches to homeland security; and
- Improve the security of governmental and private sector information technology and information resources.

The homeland security strategy must complement and operate in coordination with federal strategic guidance on homeland security.

The board must adopt rules and regulations which must be adopted, established, promulgated, amended, repealed, filed, and published in accordance with the applicable provisions and procedures set forth in Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” The courts must take judicial notice of any such rules or regulations.

The measure also defines “Emergency Operations Command” as a unified command group comprising the director of emergency management and homeland security, the director of the Georgia Bureau of Investigation, the commissioner of public safety, the commissioner of natural resources, the commissioner of transportation, and the adjutant general. The bill establishes that the operations command will not usurp the operational authority of participating agencies but will be responsible only for coordinating the public safety response to natural disasters, homeland security activities, and other emergencies within the state.

SR 821 - Recognizing the Fort Gordon Cyber Security and IT Innovation Corridor and the Savannah Logistics Technology Innovation Corridor

Sponsored by Sens. Martin, Jackson, Watson, Jones, and Dugan

Designates the Fort Gordon Cyber Security and Information Technology Innovation Corridor and the Savannah Logistics Technology Innovation Corridor as official technology innovation corridors in the State of Georgia.

Energy Efficiency

HR 926 - Electric Vehicle Day Recognition

Sponsored by Reps. Peake, Holcomb, Parsons, Stephens, and Jones

Recognizes January 25, 2018, as Electric Vehicle Day at the state capitol.

Natural Gas and Petroleum

HB 205 - Oil and Gas Exploration and Extraction Regulations

Sponsored by Reps. Meadows, Dempsey, Jasperse, Ridley, Lumsden, Broadrick, Hufstetler

Regulates the exploration and extraction of oil and gas in Georgia.

Gives the authority to create an Oil and Gas Board and requires the promulgation of rules and regulations related to drilling and extraction. The bill also amends provisions relating to drilling permits and increases the amount of bond security for drilling operations.

The law imposes a severance tax on the extraction of oil and gas as follows:

- Three cents per barrel of oil; and

- One cent per thousand cubic feet of gas.

The governing authority of each county and each municipal corporation is authorized to provide by local ordinance or resolution for the levy, assessment, and collection of a severance tax on oil or gas removed from the ground by an extractor within the jurisdiction of such county or municipality as follows:

- An amount not to exceed nine cents per barrel of oil; and
- An amount not to exceed two cents per thousand cubic feet of gas.

Utilities

HB 929 - Revising Municipal Option Sales Tax Requirements

Sponsored by Reps. Efstration, Powell, and Burns

Revises current law relating to the water and sewer projects and costs tax Municipal Option Sales Tax (MOST) such that following approval and termination of a tax a municipality may adopt a resolution or ordinance calling for a reimposition of the tax as authorized by law upon the termination of the tax then in effect.

A referendum may be held for this purpose while the tax is in effect. Proceedings for such reimposition must not be conducted more than six times, according to the law.

SB 355 - Applicability of Cost Recovery Provisions for Nuclear Generating Plant Construction

Sponsored by Sens. Hufstetler, Millar, Tippins, Kirk, Parent, and Orrock

Modifies applicability of certain provisions relating to the recovery of the costs of financing the construction of a nuclear generating plant so that a utility must recover from its customers the costs of financing associated with the construction of a nuclear generating plant which has been certified by the Public Service Commission prior to January 1, 2018.

Environmental Legislation

Air Quality and Pollution Control

HB 885 - Georgia Air Quality Act Amendment

Sponsored by Reps. McCall, Knight, and Jasperse

Amends The Georgia Air Quality Act to remove the Board of Natural Resources, department, division, or director's authority to make any rule, regulation, recommendation, or determination or to enter any order limiting or restricting burning over any agricultural tract, lot, or parcel greater than five acres for purposes of any existing, expanded, or new agricultural operations provided that such burning is consistent with the requirements of the federal act and is limited to vegetative material.

Environmental Health Services

SB 332 - Establishing an Outdoor Mentoring Program

Sponsored by Sen. Harper, Heath, Brass, Ginn, Burke, and Hill

Provides for an outdoor mentor program relating to hunting, trapping, or fishing within the Department of Natural Resources.

In creating an outdoor mentor program, the department must accomplish the following:

- Establish a mentor education course that provides instruction to outdoor mentors, the completion of which must be required before he or she may mentor an outdoor mentee under the program;
- Work with partners to develop incentives for outdoor mentors and may include reduced license fees for an outdoor mentor participating in the program;
- Issue outdoor mentees participating in the program an outdoor passport which will expire one year after issuance; and
- Prepare necessary applications and impose any further criteria and terms and conditions not inconsistent with the measure.

Inland Water Resource Management and Conservation

SB 404 - Prohibiting a Separate Fee for Certain Standby Water Service

Sponsored by Sens. Brass, Harper, Albers, Mullis, Jones, and Gooch

Prohibits county, municipal, and other public water systems from charging or assessing a separate fee for standby water service for fire sprinkler system connections.

SB 451 - Regulation of Riparian Rights Modifications

Sponsored by Sens. Walker, Martin, Strickland, Wilkinson, and Black

Modifies provisions relating to regulated riparian rights to surface waters for general or farm use, permits for withdrawal, diversion or impoundment, coordination with water plans, metering of farm use, interbasin transfers, and appeal procedures, so as to modify provisions relating to the regulated reasonable use of groundwater for farm use, permits to withdraw, obtain, or utilize, and metering of the same.

Land Management and Conservation

HB 85 - Establishing Forest Land Fair Market Value

Sponsored by Reps. Powell, England, McCall, Williams, and Greene

Revises the methodology used to establish forest land fair market value relating to the table of values for conservation use value of forest land.

Tangible real property that qualifies as forest land conservation use property must be assessed at 40 percent of its forest land conservation use value and must be taxed on a levy made by each respective tax jurisdiction

according to 40 percent of the property's forest land conservation use value. Tangible real property that qualifies as qualified timberland property must be assessed at 40 percent of its fair market value of qualified timberland property and taxed on a levy made by each respective tax jurisdiction according to 40 percent of its fair market value of qualified timberland property as such value is determined by the State Revenue Commissioner.

“Forest land conservation use property” means real property that is forest land of at least 200 acres in aggregate that lies within one or more counties, provided that such forest land is in parcels of at least 100 acres within any given county.

The fair market value of qualified timberland property must be determined through an annual appraisal conducted by the commissioner in accordance with the qualified timberland property appraisal manual, according to the bill.

HB 332 - Provides for the Georgia Outdoor Stewardship Trust Fund
Sponsored by Reps. Watson, Burns, Nimmer, Smith, Frye, and Newton

Creates the Georgia Outdoor Stewardship Trust Fund, which is established to provide stewardship for state parks, state lands, and wildlife management areas, support local parks and trails, and protect critical conservation land.

The measure authorizes up to 80 percent of all moneys received by the state from the sales and use tax collected by outdoor recreation equipment establishments in the immediately preceding fiscal year to be dedicated to the Georgia Outdoor Stewardship Trust Fund for the purpose of funding the protection of conservation land.

HR 238 - Reallocation Proposal for Outdoor Recreation Equipment Taxes
Sponsored by Reps. Watson, Burns, Nimmer, Smith, Frye, and Newton

Proposes an amendment to the Georgia Constitution to authorize the general assembly to provide by general law for an annual allocation of 75 percent of the revenue derived from the state sales and use tax with respect to the sale of outdoor recreation equipment to a trust fund to be used for the protection and preservation of conservation land.

SR 794 - Establishing the Joint Georgia-North Carolina and Georgia-Tennessee Boundary Line Commission
Sponsored by Sens. Miller, Gooch, Wilkinson, Ginn, Unterman, and Stone

Creates the Joint Georgia-North Carolina and Georgia-Tennessee Boundary Line Commission, which must meet with similar commissions of the General Assemblies of the States of North Carolina and Tennessee to establish, survey, and proclaim the true boundary lines between Georgia and North Carolina and between Georgia and Tennessee and to take such further or other action or pursue such remedy or remedies as the joint commission of the Georgia General Assembly, by a majority vote, deems proper to establish the definite and true boundary lines between Georgia and North Carolina and Georgia and Tennessee.

Reorganization and Coordination

SB 451 - State Soil and Water Conservation Commission Authority Removal
Sponsored by Sens. Walker, Martin, Strickland, Wilkinson, and Black

Removes the authority of the State Soil and Water Conservation Commission to formulate certain rules and regulations in consultation with the Environmental Protection Division of the Department of Natural Resources.

Solid Waste

HB 785 - Enacting New Solid Waste Management Definitions
Sponsored by Reps. Nix, McCall, Nimmer, Tankersley, and Buckner

Modifies certain definitions and enacts new definitions relating to solid waste management.

“Gasification to fuels and chemicals” means a process through which recovered materials or other nonrecycled feedstock is heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere, and such mixture is converted into fuel, including ethanol and transportation fuel, chemicals, or other chemical feedstocks.

“Gasification to fuels and chemicals facility” means a facility that collects, separates, stores, or converts nonrecycled feedstock into fuels, chemicals, or other valuable final or intermediate products using a gasification to fuels and chemicals process. Such term must not include a waste handling facility or solid waste thermal treatment facility.

“Post-use plastics” means recovered plastics, derived from any source, that are not being used for their originally intended purpose and that might otherwise become waste if not processed at a pyrolysis or gasification to fuels and chemicals facility or recycled, and the term includes plastics that may contain incidental contaminants or impurities such as paper labels or metal rings.

“Pyrolysis” means a process through which post-use plastics are heated, in an oxygen-free environment, until melted and thermally decomposed, then cooled, condensed, and converted into oil, diesel, gasoline, home heating oil, or other liquid fuel; gasoline or diesel blendstock; chemicals or chemical feedstock; waxes or lubricants; or other similar raw materials or intermediate or final products.

“Pyrolysis facility” means a facility that collects, separates, stores, or converts post-use plastics into fuels or other valuable final or intermediate products using a pyrolysis process. Pyrolysis facilities must not be considered solid waste handling facilities or solid waste thermal treatment facilities.

“Solid waste handling” means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities, but does not include recovered materials processing or pyrolysis or gasification to fuels and chemicals processes, or the holding of post-use plastics or nonrecycled feedstock at a pyrolysis facility or gasification to fuels and chemicals facility prior to processing at the facility where those materials are being held to ensure production is not interrupted.

HB 792 - Fees Imposed on Privately Owned Solid Waste Disposal Facilities
Sponsored by Reps. Rogers, Rhodes, Efstration, and Nix

Codifies that when a municipal solid waste disposal facility is owned by private enterprise, the host local government is authorized and required to impose a surcharge of \$2.50 per ton or volume equivalent, in addition to any other negotiated charges or fees which must be imposed by and paid to the host local government for the facility effective July 1, 2019.

The measure also states that when a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of \$1.00 per ton or volume equivalent until June 30, 2025, and a surcharge of \$2.00 per ton or volume equivalent effective July 1, 2025, for fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers, in addition to any other negotiated charges or fees which must be imposed by and paid to the host local government for the facility.

At least 50 percent of the surcharges collected must be expended for the following purposes:

- To offset the impact of the facility;
- Public education efforts for solid waste management, hazardous waste management, and litter control;
- The cost of solid waste management;
- Administration of the local or regional solid waste management plan;
- Repair of damage to roads and highways associated with the facility;
- Enhancement of litter control programs;
- Groundwater and air monitoring and protection associated with the location of the facility;
- Remediation and monitoring of closed or abandoned facilities within the jurisdiction of the host local government;
- Infrastructure improvements associated with the facility;
- Allocation of such funds in any fiscal year to a reserve fund designated for use for the above purposes in future fiscal years; and
- For the acquisition of property and interests in property adjacent to or in reasonable proximity to the facility upon a determination by the host local government that such acquisition will serve beautification, environmental, buffering, or recreational purposes such as will ameliorate the impact of the facility.

Water Quality and Pollution Control

SR 315 - In Recognition of Water Quality and Ambassadorship of Michael Render
Sponsored by Sens. Orrock, Fort, Parent, Henson, Butler, and Tate

Recognizes that “Driller Mike” and Michael Render are outstanding ambassadors of the City of Atlanta’s commitment to providing clean, safe drinking water.

The City of Atlanta is currently boring a five-mile tunnel to upgrade infrastructure for generations to come. That tunnel will fill an abandoned quarry with 2.4 billion gallons of drinking water in a \$350 million investment. The tunnel boring machine was named “Driller Mike” in honor of a native Atlanta resident, Michael Render, also known as “Killer Mike.”



KENTUCKY

“ Kentucky adopted 11 energy and environmental bills during the 2018 legislative session. This year, Kentucky urged federal lawmakers to support bills facilitating the construction of an Appalachian Storage Hub in SR 224. HB 241 amends current law to allow the Governor or the Governor’s designee to issue a temporary waiver of ASTM specifications for motor fuel during an emergency that disrupts the motor fuel supply. Several reorganization bills were passed including HB 264, which abolishes the Office of General Administration and Program Support for Shared Services (GAPS) and all of its divisions and abolishes the Office of Inspector General for Shared Services for the Energy and Environmental Cabinet, Labor Cabinet, and Public Protection Cabinet and creates new offices and divisions within each cabinet to handle the services previously handled by GAPS. ”

Energy Legislation

Alternative Energy Development

SR 224 - Resolution in Support of the Appalachian Storage Hub

Sponsored by Sen. Smith

Urges the United States Congress to support the “Appalachian Energy and Manufacturing Infrastructure Revitalization Act,” S.1340, the “Appalachian Ethane Storage Hub Study Act,” S 1075 and HR 2568, and the “Capitalizing on American Storage Potential Act,” S 1337 and HR 3143 in advancement of the Appalachian Storage Hub.

Coal and Minerals

HB 261 - Exempting Explosives and Blasting Hearings from Certain Requirements

Sponsored by Rep. Gooch

Exempts explosives and blasting hearings conducted under KRS 351.315 to 351.375 from the requirements of KRS Chapter 13B.

The bill also amends KRS 350.0301 to remove the requirement that proposed civil penalty amounts for suspected violations of surface coal mining and reclamation requirements be placed into an escrow account prior to a formal hearing;

The measure also removes the discretion of the Energy and Environment Cabinet to allow surface coal mining and reclamation permit applicants to submit their own reclamation bonds without separate sureties, and it also removes the ability to apply for a major revision to a permit in the event that an underground mining extension area is not on an incidental boundary and does not include planned subsidence.

Among other amendments, the measure also adds lighters and vaping apparatuses to the list of prohibited items in underground mines, and it changes the reporting requirements to the Department for Natural Resources for mining accidents such that an occupational injury must be reported in writing to the department within ten business days on the cabinet-approved occupational injury form.

HB 557 - Modifying Definitions Related to Economic Development

Sponsored by Rep. Petrie

Modifies existing law related to economic development to restrict grants and/or skills training investment credits to “qualified companies” now defined as excluding companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, accommodation and food services, or public administration services.

Emergency Management and Homeland Security

HB 241 - Temporary Waiver for Motor Fuel Specifications During Disruption

Sponsored by Reps. Duplessis and Gooch

Amends current law to allow the Governor or the Governor's designee to issue a temporary waiver of ASTM specifications for motor fuel during an emergency that disrupts the motor fuel supply.

Natural Gas and Petroleum

SB 104 - Modifying Penalties for Natural Gas Pipeline Safety Act Violations

Sponsored by Sen. Hornback

Amends current law to ensure state penalties for violations of the Natural Gas Pipeline Safety Act conform with federal penalties.

The bill requires that each operator must report to the Public Service Commission excavation damage to an underground facility used in the transportation of gas or hazardous liquid within 30 calendar days of being informed of the damage. Each report of excavation damage must be made by electronic mail or as otherwise prescribed by the commission.

The measure also declares the commission's statewide authority to enforce and assess civil penalties and to seek injunctive relief for any violation that results in damage to an underground facility used to transport gas or hazardous liquid subject to the federal pipeline safety laws. Once the commission initiates an investigation or undertakes an enforcement action against a person for an alleged violation, no other state, county, city, or fire protection agency must initiate or continue any enforcement action against the person for the same alleged violation. Any action to recover penalties assessed pursuant to this subsection must be brought in the Franklin Circuit Court. All penalties recovered by the commission must be paid into the State Treasury and credited to the account of the commission.

SB 249 - Exempting Oil and Gas Hearings from Certain Requirements

Sponsored by Sen. Carpenter

Exempts oil and gas hearings held under KRS Chapter 353 from the hearing requirements of KRS Chapter 13B, except for hearings conducted by the Kentucky Oil and Gas Conservation Commission.

The bill also amends current law to provide for petition and notice requirements for oil and gas hearings held by the Energy and Environment Cabinet's Office of Administrative Hearings relating to drilling near coal-bearing strata.

In accordance with the measure, the director must make a final agency determination with regard to a mediation plan between well operators and surface owners as well as when determining whether a distance variance may be permitted for a well.

Finally, the measure also changes notice requirements for pool orders relating to sequestration of carbon dioxide from at least 20 days notice to no more than 30 days prior to the initial application for the pooling order.

Reorganization and Coordination

HB 264 - Abolishing the Office of General Administration and Program Support for Shared Services

Sponsored by Rep. Castlen

Abolishes the Office of General Administration and Program Support for Shared Services (GAPS) and all of its divisions and abolishes the Office of Inspector General for Shared Services for the Energy and Environmental Cabinet, Labor Cabinet, and Public Protection Cabinet and creates new offices and divisions within each cabinet to handle the services previously handled by GAPS.

SB 149 - Energy and Environment Cabinet Reorganization

Sponsored by Sen. Carpenter

Renames and reorganizes offices within the Energy and Environment Cabinet. This law changes the name of the Office of General Counsel to the Office of Legal Services and creates Legal Division I and Legal Division II within the office.

The bill also creates the Office of Communication within the Office of the Secretary and changes the name of the Kentucky State Nature Preserves Commission to the Office of Kentucky Nature Preserves.

Further, the bill accomplishes the following:

- Removes the Division of Technical and Administrative Support from the Department for Natural Resources;
- Changes the name of the Department for Energy Development and Independence to the Office of Energy Policy;
- Changes the name of the Division of Efficiency and Conservation to the Division of Energy Assistance within the office; and
- Deletes all other divisions within the office.

Utilities

HB 557 - Modifying Definitions Related to Economic Development

Sponsored by Rep. Petrie

Modifies existing law related to economic development to restrict grants and/or skills training investment credits to “qualified companies” now defined as excluding companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, accommodation and food services, or public administration services.

Environmental Legislation

Solid Waste

SJR 218 - Identifying Sources of Food Waste and Best Practices

Sponsored by Sen. Girdler

Directs state agencies to conduct self-studies to examine practices that contribute to food waste and identify new practices that would reduce food waste and increase food donations to charitable feeding agencies.

Water Quality and Pollution Control

HB 513 - Modifications to Definitions and Requirements for Small Wastewater Treatment Plants

Sponsored by Rep. Tipton

Creates new law to define “sewage” and “small wastewater treatment plant” and allows the Energy and Environment Cabinet to require structural analyses of small wastewater treatment plants under certain conditions.

The bill also provides for the cabinet to require small wastewater treatment plants’ owners to secure financial or performance measures that may include insurance policies or financial instruments, surety bonds or other instrument or reasonable guaranties, the utilization of asset management plans or capacity, management, operation and maintenance measures, and financial assurance measures that ensure the plant operates in conformity with applicable laws and that the plant is maintained properly.



LOUISIANA

“ Louisiana adopted 30 energy and environmental bills during the 2018 legislative session. HB 727 continues the trend from last year of bills related to the protection of critical infrastructure. The bill both defines and criminalizes damage to critical infrastructure. HB 104 increases the ceiling on penalties for pipeline safety violations from \$10,000 per day to \$200,000 per day with a maximum fine increase from \$500,000 to \$2 million. Continuing the trend of bills related to natural gas, HB 120 authorizes the commissioner of conservation to certify to the U.S. Department of Transportation his regulatory authority over underground natural gas storage facilities that are not regulated by the Federal Energy Regulatory Commission and the gas stored at those facilities. ”

Energy Legislation

Alternative Energy Development

HB 374 - Modifications to Requirements for Qualified Claims for Solar Energy System Tax Credit

Sponsored by Rep. Abramson

Requires the Board of Tax Appeals to issue an order to tax as costs, deposits, and filing fees paid on certain appeals related to qualified claims for the solar energy system tax credit.

For the purposes of the law, a “qualified claim” means a claim eligible for payment by the Department of Revenue and may not include any claim that includes other justiciable issues in addition to the solar energy system tax credit. The measure authorizes the Board of Tax Appeals to waive deposits and filing fees for a qualified claim if the deposits and filing fees have not been paid as of the effective date.

Coal and Minerals

SCR 96 - Request for Certain Written Reports Relating to Mineral Revenues and Exemptions

Sponsored by Sen. Allain

Requests the Louisiana State University Center for Energy Studies, Louisiana State University Public Administration Institute, and the Louisiana Tax Institute to analyze mineral revenues, taxes, and exemptions and to submit a written report of its findings to the Legislature.

Emergency Management and Homeland Security

HB 727 - Redefining Critical Infrastructure and Providing for Penalties

Sponsored by Rep. Thibaut

Amends the lawful definition of “critical infrastructure” to do both of the following:

- Include any and all structures, equipment, or other immovable or movable property located within or upon such facilities, including any site where the construction or improvement of any such facility or structure is occurring; and
- Include pipeline, which is defined to mean flow, transmission, distribution, or gathering lines, regardless of size or length, which transmit or transport oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state.

The measure criminalizes damage to a critical infrastructure and defines it as the intentional damaging of a critical infrastructure as defined by present law. The following penalties apply for those found guilty of violating the law:

- Imprisonment with or without hard labor for not less than one year nor more than 15 years, a fine of not more than \$10,000, or both;

- If it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of the conduct - imprisonment at hard labor for not less than six years nor more than 20 years, a fine of not more than \$25,000, or both.

Relative to the crime of unauthorized entry of a critical infrastructure, the bill does not apply to or prevent the following:

- Lawful assembly and peaceful and orderly petition, picketing, or demonstration to express ideas or views regarding legitimate matters of public interest;
- Lawful commercial or recreational activities conducted in the open or unconfined areas around a pipeline; and
- The right of ownership for an owner of an immovable property.

Energy Efficiency

HCR 72 - Establishing the Daylight Saving Time Task Force *Sponsored by Reps. Stokes and Garofalo*

Creates the Daylight Saving Time Task Force to study and make recommendations relative to the observance of daylight saving time in Louisiana and to submit a written report of findings and recommendations to the House committee on commerce and Senate committee on commerce, consumer protection, and international affairs no later than 60 days prior to the start of the regular session in 2019.

Among other issues, the task force must study the effect of daylight saving time on energy and electricity usage.

Natural Gas and Petroleum

HB 104 - Increasing Penalties for Pipeline Safety Violations *Sponsored by Rep. Morris*

Increases the ceiling on penalties for pipeline safety violations from \$10,000 per day to \$200,000 per day with a maximum fine increase from \$500,000 to \$2 million.

HB 120 - Establishing Authority of the Commissioner of Conservation *Sponsored by Rep. Bishop*

Authorizes the commissioner of conservation to certify to the U.S. Department of Transportation his regulatory authority over underground natural gas storage facilities that are not regulated by the Federal Energy Regulatory Commission and the gas stored at those facilities.

HB 331 - Oilfield Site Restoration Fund Payments

Sponsored by Rep. Morris

Provides for payment of the Oilfield Site Restoration Fund fee.

The bill specifies that the fee is payable upon the initial disposition of each barrel of oil and condensate, and the fee is remedial and curative and applies retroactively to July 1, 2017, as well as prospectively.

Further, to prevent double payment, the bill requires amended oilfield site restoration fee returns, along with a reconciliation report and any fee due, be submitted to the Department of Revenue for those returns filed between July 1, 2017, through June 30, 2018.

HB 814 - Providing for the Funds and Use of the Oilfield Site Restoration Fund

Sponsored by Rep. Morris

Provides for the funds and use of the Oilfield Site Restoration Fund.

The bill adds as a source to the fund any sums collected from financial security instruments required by rules and regulations and prohibits the use of monies collected from financial security instruments tied to a specific well or wells for any oilfield sites other than those for which the financial security was provided. The use of these funds is extended from fiscal year 2018-2019 to fiscal year 2021-2022.

HCR 35 - Establishing Liquified Natural Gas Day

Sponsored by Rep. Bishop

Recognizes April 10, 2018, as Liquified Natural Gas Day at the Legislature.

HR 127/SR 143 - Declaring the Fourth Annual Oil and Natural Gas Industry Day

Sponsored by Rep. Bishop; Sen. Chabert

Designates April 24, 2018, as the fourth annual Oil and Natural Gas Industry Day at the state capitol.

HR 169 - Resolution Urging Permit Applications for Various Projects

Sponsored by Rep. Leopold

Urges the Federal Energy Regulatory Commission to process and act on the permit applications for the Venture Global Calcasieu Pass LNG export terminal and the TransCameron pipeline projects in a timely manner.

SB 195 - Setting Fees for Bulk Fuel Withdrawals

Sponsored by Sen. Walsworth

Allows the secretary of the Department of Environmental Quality, after consideration of the recommendation from the Motor Fuels Underground Storage Tank Trust Fund Advisory Board, to change the amount of the fee for every withdrawal of 9,000 gallons from bulk fuel on an annual basis. The bill further caps the fee at a maximum of \$72 per every withdrawal of 9,000 gallons from bulk fuel.

The measure also requires the board to determine the minimal level of funding by conducting an annual review of receipts and disbursements from the fund along with the projected amounts expected to be

expended in the next fiscal year. Further, the board is required to meet at the end of each fiscal year to determine its recommendation on the setting of the fee for the next fiscal year.

SB 456 - Modifications to the Louisiana Oil Well Lien Act
Sponsored by Sen. Johns

Removes the disposal of salt water or another waste substance from the list of activities that is not included in the definition of operations as it relates to the Louisiana Oil Well Lien Act.

SCR 86 - Requesting 3-D Seismic Data from the Oil and Gas Industry
Sponsored by Sen. Hewitt

Requests the oil and gas industry to support the construction of the Louisiana Geological Survey Coastal Geohazards Atlas by providing access to interpretations from 3-D seismic data.

Reorganization and Coordination

HB 675 - Establishing the Louisiana Energy and Power Authority Unit 1 Participants Committee
Sponsored by Rep. Zeringue

Provides for the creation of the Louisiana Energy and Power Authority Unit 1 Participants Committee.

According to the bill, the committee must comprise the municipalities that are contracted through a power sales agreement, and it has the sole authority to decide all matters related to the unit.

HCR 48 - Urging Federal and State Lawmakers to Rectify Revenue Sharing Inequities
Sponsored by Rep. Garofalo

Urges the U.S. Congress and the Louisiana Congressional Delegation to take such actions as are necessary to rectify the revenue sharing inequities between coastal and interior energy producing states and to ensure the dependability of such revenue sharing.

HR 110 - Resolution Urging Passage of Infrastructure Improvement Legislation
Sponsored by Rep. James

Memorializes congress to pass legislation that supports efforts to build, modernize, and maintain the United States' infrastructure with consideration of the following principles:

- Redefining infrastructure;
- Committing to fund job training and workforce development;
- Empowering minority contractors;
- Promoting inclusiveness;
- Building for resilience;

- Multi-modal transportation planning; and
- Future-proofing.

Utilities

HB 893 - Records Retention of Appraisals of Various Properties

Sponsored by Rep. Connick

Requires retention of records by the Louisiana Tax Commission concerning its appraisals of public service properties. Public service properties include airlines, barge lines, electric companies, transportation companies, gas companies, insurance companies, and financial institutions.

Environmental Legislation

Coastal Zone Management

HB 573 - Outcome-based Performance Contract Projects

Sponsored by Rep. Zeringue

Allows political subdivisions to perform integrated coastal projects through outcome-based contracting.

The bill defines “outcome-based performance contract” to be a contract with specific outcomes or goals and for payment upon completion of those agreed-upon outcomes or goals. The use of outcome-based performance contracts for projects that cost more than \$25 million or with terms exceeding 10 years is prohibited by this legislation.

HCR 77 - Resolution Regarding Coastal Use Permitting

Sponsored by Rep. Hensgens

Urges and requests the Coastal Protection and Restoration Authority and the Department of Natural Resources work with local political subdivisions with statutory responsibility for activities that require state coastal use permits to determine the necessity of state coastal use permits.

Emergency Management and Homeland Security

HB 388 - Registry and Credential Process for Emergency Response Volunteers

Sponsored by Rep. Hodges

Authorizes a registry and credentialing of volunteers in disaster or emergency response, provides limitations of liability for volunteers, and adds provisions governing leave from employment for volunteer firefighters.

Environmental Health Services

HB 118 - Extending Payments for the Underwater Obstruction Removal Fund

Sponsored by Rep. Billiot

Extends payments into the Underwater Obstruction Removal Fund to June 30, 2022, and extends the existence of the Fishermen's Gear Compensation Fund to June 30, 2022.

HB 688 - Department of Wildlife and Fisheries Powers Relating to Litter

Sponsored by Rep. Lyons

Clarifies that the powers, duties, functions, and responsibilities for litter education and litter reduction programs reside with the Department of Wildlife and Fisheries.

SCR 42 - Establishing a Task Force on Highway and Waterway Litter

Sponsored by Sen. Appel

Creates a task force to study the problem of trash and litter on state highways and waterways.

The task force includes the chair, or member designated, by the chair of the following committees:

- Senate Committee on Environmental Quality, who will serve as chair of the task force;
- Senate Committee on Commerce, Consumer Protection, and International Affairs;
- Senate Committee on Judiciary C;
- Senate Committee on Natural Resources;
- Senate and House committees on education;
- Senate and House committees on transportation, highways, and public works;
- House Committee on Commerce;
- House Committee on Natural Resources and Environment; and
- House Committee on the Judiciary.

The bill requires a report to the Legislature no later than 60 days prior to the 2019 regular session.

SCR 95 - Resolution Favoring Proposal Development to Monitor Certain Wildlife

Sponsored by Sen. Allain

Requests the Coastal Protection and Restoration Authority and the Department of Wildlife and Fisheries to develop a proposal seeking Open Ocean TIG and RW TIG funds to monitor red snapper and other reef fish impacted by the Deepwater Horizon oil spill.

Inland Water Resource Management and Conservation

SCR 5 - Resolution in Opposition to the “One Lake” Project *Sponsored by Sen. Mizell*

Expresses opposition to the “One Lake” project proposing to dam the Pearl River and build a 1,500 acre lake near Jackson, Mississippi, and requests the United States Army Corps of Engineers to deny a pending permit for the project.

SCR 99 - Establishing the Public Recreation Access Task Force *Sponsored by Sen. Allain*

Creates the Public Recreation Access Task Force to study the conditions, needs, and issues relative to potential public recreation access on the navigable waters of the state.

The task force includes two members of the Senate appointed by the Senate President and two members of the House appointed by the House Speaker. The measure requires that the task force make recommendations to the Legislature no later than February 1, 2020.

Solid Waste

HB 119 - Regulating Powers of Commissioner of Conservation *Sponsored by Rep. Bishop*

Prohibits the Commissioner of Conservation from regulating the hours a commercial facility may receive certain exploration and production waste.

Water Quality and Pollution Control

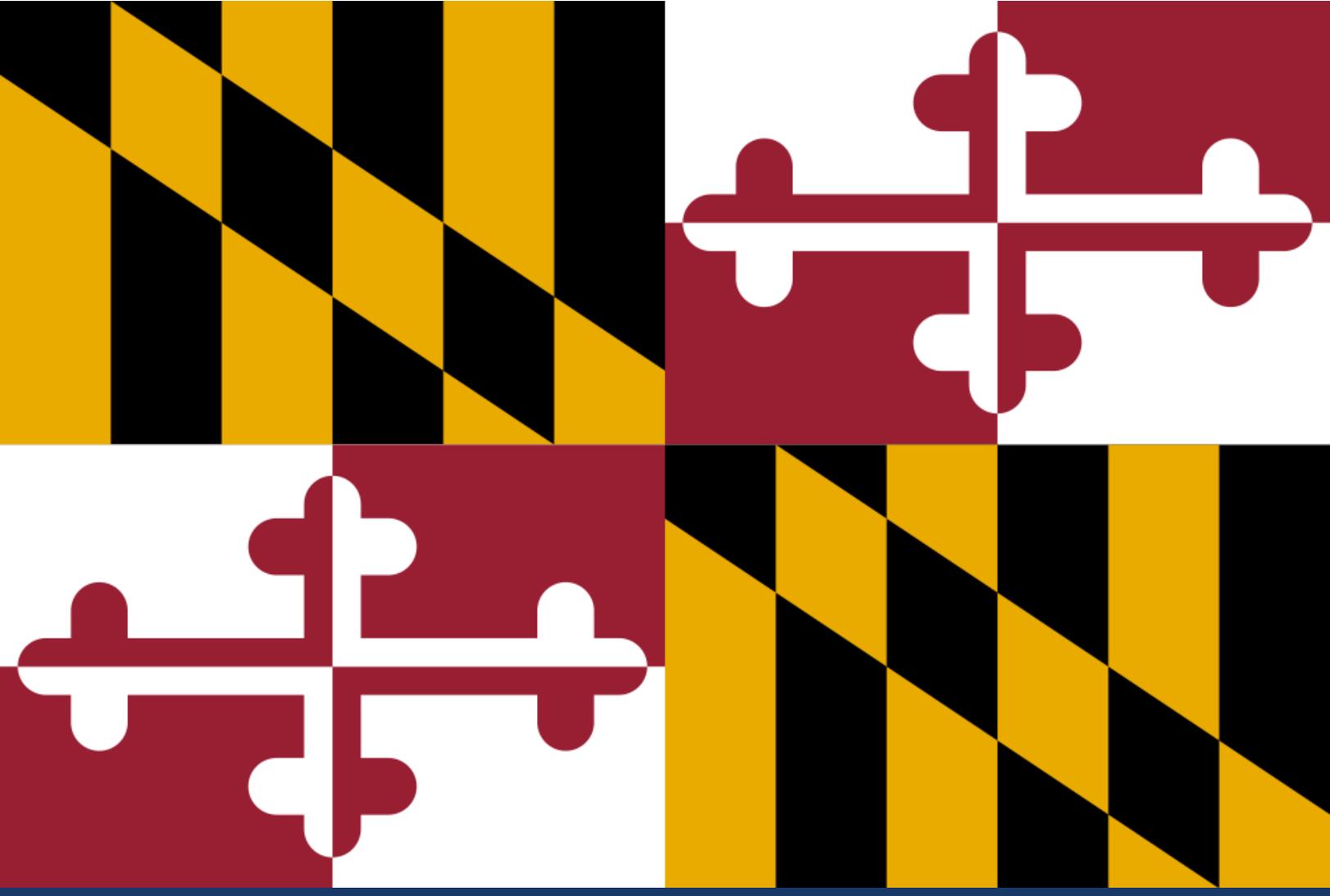
HB 433 - Annual Reporting Requirements for the Sparta Groundwater Conservation District *Sponsored by Rep. Shadoin*

Provides for annual reporting requirements specific to the Sparta Groundwater Conservation District.

By law, the report must include the amount of water used for public supply, industrial, or agricultural purposes, actual and projected saltwater intrusion or encroachment, and any current or projected sale of water for use outside of the state, including the amount of water so sold and the price paid by each out-of-state user.

HCR 1 - Establishes the Sanitary Sewer Systems Overflows Commission *Sponsored by Rep. Hollis*

Creates the Sanitary Sewer Systems Overflows Commission to study and make recommendations on actions necessary to timely report, reduce, and eliminate sewage overflows. The bill requires recommendations be submitted to oversight committees no later than March 1, 2019.



MARYLAND

“ Maryland adopted 25 energy and environmental bills during the 2018 legislative session. Maryland passed three bills under the category of energy efficiency this year. Specifically, HB 1481/SB 648 requires a home builder, prior to executing a contract for the initial sale of a new home, to provide written information to the purchaser about energy-efficient options. HB 1783 alters the requirements for awarding school construction contracts in order to offer incentives for local school systems to construct net-zero energy buildings and use energy efficient or other preferred materials in public school construction. ”

Energy Legislation

Alternative Energy Development

HB 1573 - Requiring Notice of Sale for Certain Solar Facilities

Sponsored by Del. Arentz

Requires the owner of a commercial solar facility with a capacity of more than two megawatts to provide notice within 30 days after the facility's sale or transfer to the Public Service Commission and the county in which the facility is located.

The notice must include specified contact information for the new owner, including the name, address, phone number, and e-mail address.

SB 433 - Modifications to Reporting Requirements Related to the Renewable Energy Portfolio Standard

Sponsored by Sen. Hershey

Alters the date from February 1 to December 1 by which the Public Service Commission is required to report yearly to the general assembly on the status of implementation of the renewable energy portfolio standard.

Energy Efficiency

HB 714/SB 751 - Allowing Certain Hybrid Vehicles to Use HOV Lane

Sponsored by Del. McMillan; Sen. Simonaire

Extends the termination date to September 30, 2022, for stated provisions of law authorizing certain hybrid vehicles to use a high occupancy vehicle (HOV) lane regardless of the number of passengers under specified circumstances.

HB 1481/SB 648 - Requiring Notification of Energy-efficient Options

Sponsored by Del. Fraser-Hidalgo; Sen. Kelley

Requires a home builder, prior to executing a contract for the initial sale of a new home, to provide written information to the purchaser about energy-efficient options.

The law requires a contract for the initial sale of a new home to contain an acknowledgment that the home builder provided the purchaser with written information about any energy-efficient options, including a statement that tax credits may be available related to the energy-efficient options, available for installation in the home before construction of the home is completed.

The bill's requirements only apply to a development that contains 11 or more new homes to be built by the same builder.

HB 1783 - Modifications to Requirements for School Construction Contracts

Sponsored by Del. Jones

Alters the requirements for awarding school construction contracts.

Among the bill's various changes, the Interagency Commission on School Construction (IAC) must develop and provide incentives for local school systems to:

- Construct net-zero energy buildings, as defined by the bill;
- Use energy efficient or other preferred materials in public school construction; or
- Use prototype school designs, including expedited review of projects that use prototypes.

Any incentives offered by IAC are subject to legislative review and are supplemental to, and not intended to replace, funding that otherwise would be appropriated to local governments for school construction. The Maryland Green Building Council must also develop guidelines that enable new public school buildings to meet the equivalent of current "green building" standards without requiring an independent certification that the buildings have achieved the required standards.

Reorganization and Coordination

HB 784 - Public Notice Requirement for CPCNs
Sponsored by Dels. Impallaria and Reilly

Requires the Public Service Commission (PSC) to provide notice of an application for a Certificate of Public Convenience and Necessity (CPCN) on its social media platforms and website.

For the construction of an overhead transmission line, the bill states the PSC must require the CPCN applicant to identify whether it is proposed be constructed on:

- An existing brownfields site, as defined;
- Property subject to an existing easement; or
- A site where a tower structure or components of a tower structure used to support an overhead transmission line exist.

HB 869 - Additional Notification Requirements for CPCNs
Sponsored by Del. Szeliga

Establishes additional notification requirements under the Certificate of Public Convenience and Necessity (CPCN) application process for the construction of transmission lines.

The bill must be constructed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any CPCN application filed before the bill's October 1, 2018, effective date.

Utilities

HB 218 - Master Meter Prohibition in Specified Locations
Sponsored by the Prince George's County House Delegation Committee

Prohibits stated entities from authorizing the use of a master meter for certain services in specified residential multiple occupancy buildings in Prince George's County.

The bill establishes a Task Force on the Use of Master Meters for Utility Services in Prince George's County to study certain issues, including the amount of money owed by unit owners related to the use of water meters, and to report its findings to the Governor and Prince George's County Delegation of the General Assembly by December 31, 2018.

HB 1491 - Removing PSC Authority to Allow Master Meter Use
Sponsored by Del. Washington

Repeals the authority of the Public Service Commission (PSC) to allow the use of a master meter without submeters in a residential multiple occupancy building.

The PSC must conduct a study on the feasibility of transitioning master meters without submeters to energy allocation systems or submeters in apartment buildings or complexes, condominiums, and housing cooperatives. The PSC must report its findings to the General Assembly by January 15, 2019.

HB 1528/SB 1117 - Establishing an Arrearage Prevention Program
Sponsored by Del. Clippinger; Sen. Klausmeier

Authorizes the Department of Human Services (DHS) to use unspent bill assistance and arrearage funds, as specified, to establish an arrearage prevention program to prevent or reduce arrearages for low-income customers who have participated in a low-income residential weatherization program.

The bill requires DHS, in fiscal year 2019, to dedicate \$750,000 of specified funds to the arrearage prevention program.

SB 98 - Modifications to Rules for Assessing Operating Properties
Sponsored by the Senate Budget and Taxation Committee

Authorizes the State Department of Assessments and Taxation to apportion the assessment of operating property for public utilities uniformly, regardless of whether the utility is domestic or foreign, the property is real or personal, or the property was placed into service prior to or after January 1, 1968.

SB 1251 - Providing for PILOT Agreements
Sponsored by Caroline County Senators Committee

Authorizes municipalities to enter into a payment in lieu of taxes (PILOT) agreement with the owner of an electricity generation facility that is located or locates in the municipality.

According to the bill, the agreement must provide that the owner pay to the municipality a specified amount each year in lieu of municipal property taxes and all or a specified part of the real and personal property at the facility be exempt from municipal property tax for the term of the agreement.

Environmental Legislation

Air Quality and Pollution Control

HB 1126 - Requirement to Consider Alternate Routes for Proposed Overhead Transmission Lines

Sponsored by Del. Lisanti

Requires the Public Service Commission (PSC) to consider, for an application for a Certificate of Public Convenience and Necessity (CPCN) for a proposed overhead transmission line, the alternative routes that the CPCN applicant considered, including the estimated capital and operating costs of each alternative route and a statement of the reason why the alternative route was rejected.

The bill also clarifies that the PSC must consider, when applicable, the effect on air quality, rather than air pollution, of a proposed project during the CPCN process.

Coastal Zone Management

HB 1350/SB 1006 - Rules for Applicability of “Coast Smart” Siting

Sponsored by Del. Stein; Sen. Pinsky

Expands the applicability of “Coast Smart” siting and design criteria and modifies a requirement that must be included in the criteria.

The bill also requires the establishment of specified plans and criteria relating to saltwater intrusion, the use of state funds for specified hazard mitigation, and nuisance flooding.

Environmental Health Services

HB 3 - U.S. Climate Alliance Membership

Sponsored by Del. Stein

Requires the Governor to include the state as a member of the U.S. Climate Alliance on or before July 1, 2018.

The measure prohibits the Governor from withdrawing the State of Maryland from the U.S. Climate Alliance unless the General Assembly enacts a law approving the withdrawal. The Governor is also required to report to certain committees of the General Assembly on or before December 1 each year, beginning on or before December 1, 2018, on any collaborations among Alliance members and any policies or programs that the Alliance has endorsed or undertaken.

HB 183 - Establishing the Prince George’s County Environmental Justice Commission

Sponsored by the Prince George’s County House Delegation Committee

Establishes the Prince George’s County Environmental Justice Commission to study environmental justice issues in Prince George’s County and make recommendations regarding actions that should be taken to address environmental justice issues in the county and whether the duration of the commission should be extended.

The Prince George's County Department of the Environment must provide staff for the commission. The commission must report its findings and recommendations to the Prince George's County House Delegation by December 31, 2018. The bill takes effect on June 1, 2018, and terminates on June 30, 2019.

HB 230/SB 290 - RGGI Membership Restrictions

Sponsored by Del. Korman; Sen. Pinsky

Restricts the state's ability to withdraw from the Regional Greenhouse Gas Initiative (RGGI) by requiring statutory approval from the General Assembly prior to withdrawing.

Inland Water Resource Management and Conservation

SB 100 - Authorizing Powers of MDE Designee

Sponsored by the Education, Health, and Environmental Affairs Committee

Authorizes a designee of the Maryland Department of the Environment (MDE) to serve as the approval authority for the construction, reconstruction, or repair of certain small, low-hazard ponds, dams, or waterway obstructions, thereby exempting these activities from the requirement to obtain a dam safety permit from MDE.

Land Management and Conservation

HB 1588 - Zoning Classification Amendment Prohibition

Sponsored by Del. Howard

Prohibits a local legislative body from granting an amendment to change a zoning classification on a parcel of land based on a finding that there was a substantial change in the character of the neighborhood where the property is located or a mistake in the existing zoning classification.

This measure only applies if the primary reason for the proposed amendment is the existence of an energy generating system on that parcel of land or on a parcel of land that is adjacent to or in close proximity to that parcel of land.

Reorganization and Coordination

SB 844 - Newsprint Recycling Board Abolition

Sponsored by Sen. Conway

Repeals the Newsprint Recycling Board within the Maryland Department of the Environment and transfers the board's responsibilities to the Secretary of the Environment.

Water Quality and Pollution Control

HB 923/SB 709 - Service Affordability Program Authorization

Sponsored by Del. Walker; Sen. Eckardt

Authorizes a political subdivision, a sanitary commission, or an authority that provides water and sewer services to develop and implement service affordability programs to assist homeowners having difficulty making payments for water and sewer services and disconnect service to specified vacant property under certain circumstances.

If the applicable service entity disconnects water or sewer service to a vacant property pursuant to the bill, service must be restored under specified circumstances. The bill also expresses the General Assembly's intent that homeowners have access to programs to assist them in making payment obligations for water and sewer services.

HB 1566/SB 854 - Water and Sewage Disposal Service Sale and Acquisition Procedures

Sponsored by Del. Miller; Sen. Klausmeier

Establishes processes and related requirements for the sale and acquisition of water and sewage disposal service providers.

The bill applies to any public or private water or sewage disposal service provider with fewer than 400,000 customers.

HB 1765 - Watershed Implementation Plan Modifications

Sponsored by Del. Lafferty

Authorizes the state or a local jurisdiction to count a reduction in nitrogen toward identified nitrogen load reductions in its respective watershed implementation plan (WIP) from upgrading an on-site sewage disposal system (septic system) to the best available technology for the removal of nitrogen if the operation and maintenance contract is current and pumping out a septic system that is subject to a local septic stewardship plan that meets specified requirements.

The bill also authorizes use of the Bay Restoration Fund Septics Account to provide financial assistance to homeowners for the reasonable cost of pumping out septic systems under specified conditions and, in fiscal year 2020 and 2021, financial assistance to a local jurisdiction to develop a qualifying septic stewardship plan.

SB 337 - System Consolidation Authorization

Sponsored by Sen. Middleton

Allows the Public Service Commission, after notice to customers and holding a public hearing and an evidentiary hearing, to authorize a certain rate consolidation of two or more water or sewage disposal systems if the systems have common ownership and the rate consolidation is in the public interest.

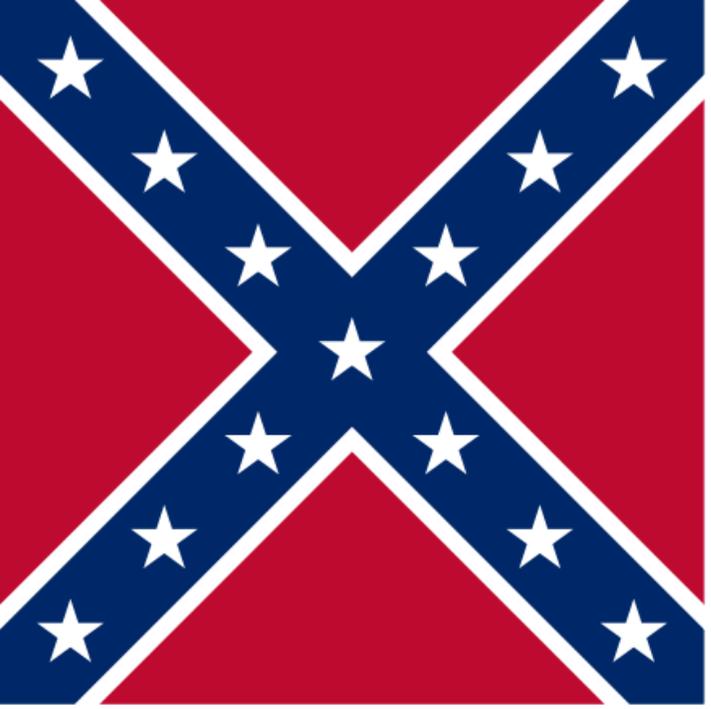
SB 496 - Defining Graywater and Authorizing Use

Sponsored by Sen. Ready

Defines "graywater" and authorizes its use under specified conditions for residential purposes including household gardening, composting, lawn watering, landscape irrigation, or flushing of a conventional toilet or urinal.

“Graywater” is defined as used, untreated water generated by the use of and collected from a shower, a bathtub, or a lavatory sink; the term does not include water from a toilet, a kitchen sink, or a dishwashing machine.

The Maryland Department of the Environment (MDE) must adopt implementing regulations per this legislation.



MISSISSIPPI

“ Mississippi adopted 19 energy and environmental bills during the 2018 legislative session. Mississippi passed several bills related to the regulation of natural gas and petroleum, including HB 813 that revises tank regulatory fee provisions and creates the Underground Storage Tank Advisory Council. Under environmental legislation, SB 2465 provides an insurance premium discount or reduction for homeowners who build a new home within the state that better resists tornado or other catastrophic windstorm events. SB 2485 revises the public hearing requirements for solid waste management permits issued by the Mississippi Environmental Quality Permit Board to match those for commercial hazardous waste management permits. ”

Energy Legislation

Emergency Management and Homeland Security

SB 2956 - Budget Allocation for Emergency Management

Sponsored by Sens. Clarke, Hopson, Michel, Jackson, McDaniel, and Simmons

Allocates not more than \$500,000 from any general or special fund treasury fund and major object budget category to another special or general fund treasury fund and major object budget category accordingly under the control of the Mississippi Emergency Management Agency.

The executive director of the Mississippi Emergency Management Agency must submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer, according to the bill.

Natural Gas and Petroleum

HB 813 - Establishing the Underground Storage Tank Advisory Council

Sponsored by Rep. Smith

Revises tank regulatory fee provisions and creates the Underground Storage Tank (UST) Advisory Council.

The annual tank regulatory fee must be an amount sufficient to accomplish assigned duties but not to exceed \$200 per tank. The fee, as set by the Commission on Environmental Quality, must be assessed per tank per year and collected from the owner of each underground storage tank available for use in Mississippi.

The UST Advisory Council is created to consult with the commission on all matters relating to the UST program, to conduct an independent study of the development and administration costs of the program, and to conduct an annual review of administering such program.

The UST Advisory Council will be composed of the following members:

- The President of the Mississippi Petroleum Marketers and Convenience Store Association (MPMCSA) or his or her designee;
- A member of the MPMCSA appointed by the Board of Directors of the MPMCSA for a term of four years;
- A representative appointed by the President of the Mississippi Engineering Society, experienced in the assessment and remediation of petroleum contamination, for a term of four years;
- A representative appointed by the Governor, of any company doing business in Mississippi in the installation, closure, and/or testing of underground storage tanks; and
- A representative appointed by the Lieutenant Governor, of any company doing business in Mississippi in the installation, closure, and/or testing of underground storage tanks.

HB 1350 - Repealer Extension for Horizontally Drilled Wells

Sponsored by Rep. Cockerham

Extends the repealer on provisions establishing a reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and horizontally drilled recompletion wells until July 1, 2023.

HB 1625 - Expansion Authorization for Certain Gas Distribution Systems in Byhalia

Sponsored by Reps. Kinkade, Foster, Hale, and Mettetal

Authorizes the governing authorities of the town of Byhalia to expand its gas system within a certain area outside the corporate limits.

SB 3037 - Expansion Authorization for Certain Gas Distribution Systems in Tishomingo

Sponsored by Sen. Wilemon

Authorizes the governing authorities of the town of Tishomingo, in Tishomingo county, Mississippi, to expand its gas distribution system within a certain distance outside the corporate limits of the town.

Utilities

HB 297 - Definition Clarification Relating to Customer Deposits

Sponsored by Rep. Sanford

Clarifies that a customer deposit is included in the definition of “rate.”

HB 380 - Interlocal Agreement Authorization

Sponsored by Reps. Sanford, Sykes, and Dixon

Authorizes a municipality to enter into an interlocal agreement with a rural water association operating within the corporate limits of the municipality that requires the association to terminate the water service of customers who are delinquent in the payment of charges for sewer services provided by the municipality.

HB 1696 - Payment Procedure for Principal and Interest on Certain Bonds

Sponsored by Reps. Baker, Calhoun, Powell, Rogers, and Weathersby

Provides an efficient and effective procedure for payments to be made by public agency members for principal and interest on bonds issued by the West Rankin Utility Authority.

Payments of members made under contracts with the authority for the purpose of paying premium, if any, principal and interest on specific bonds issued by the authority must be used solely for the purpose of paying premium, if any, principal and interest on those specific bonds and for no other purpose. Such payments must be deposited in a segregated bank account and the holders of the specific bonds to which the payments relate must have an exclusive first priority lien on such payments and funds deposited in such account. Such payments must not be subject to lien or attachment by any creditor of the authority and must not be considered to be revenues of the authority available for payment of operation and maintenance costs or any other obligation of the authority.

Further, the bill prohibits members from entering into contracts with the authority that impair the ability of the authority to repay Water Pollution Control Revolving Loans made by the Mississippi Department of Environmental Quality to the authority.

Environmental Legislation

Emergency Management and Homeland Security

HB 887 - Repealer Extension for Comprehensive Hurricane Damage Mitigation Program
Sponsored by Rep. White

Extends the date of the repealer on the comprehensive hurricane damage mitigation program within the Department of Insurance to July 1, 2021.

SB 2465 - Insurance Discounts for New Homes Meeting Certain Requirements
Sponsored by Sen. Carmichael

Provides an insurance premium discount or reduction for homeowners who build a new home within the state that better resists tornado or other catastrophic windstorm events.

SB 2956 - Fund Allocation Under the Control of the Mississippi Emergency Management Agency
Sponsored by Sens. Clarke, Hopson, Michel, Jackson, McDaniel, and Simmons

Allocates not more than \$500,000 from any general or special fund treasury fund and major object budget category to another special or general fund treasury fund and major object budget category accordingly under the control of the Mississippi Emergency Management Agency.

The executive director of the Mississippi Emergency Management Agency must submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and Administration on or before the fifteenth of the month prior to the effective date of the transfer, according to the bill.

Environmental Health Services

HB 1114 - Procedures for Cleaning Certain Property
Sponsored by Reps. Rushing, Sykes, and Dixon

Sets forth the law on cleaning property determined to be a menace to public health, safety, and welfare.

According to the measure, when the fee or cost to clean property or a parcel of land that is one acre or less does not exceed \$250, excluding administrative costs, and the property or parcel is located within a municipality having a population over 25,000, the governing authority of the municipality may authorize one or more of its employees to determine whether the property or parcel of land is in such a state of uncleanliness as to be a menace to the public health, safety, and welfare of the community. The determination made by the authorized municipal employee must be set forth and recorded in the minutes of the governing authority. Notice of this determination must be provided to the property owner by:

- United States mail seven days before the date of cleaning of the property or parcel of land mailed to the address of the subject property and to the address where the ad valorem tax notice for such property is sent by the office charged with collecting ad valorem tax; and
- Posting notice for at least seven days before the cleaning of the property or parcel of land and at city hall or another place in the municipality where such notices are posted.

If an authorized municipal employee determines that the condition of the property or parcel of land is a menace to the public health, safety, and welfare of the community, the governing authority, if the owner does not do so himself, must proceed to clean the land, by the use of municipal employees or by contract, by cutting grass and weeds; filling cisterns; and removing rubbish, abandoned or dilapidated fences, outside toilets, abandoned or dilapidated buildings, slabs, personal property, and other debris as well as draining cesspools and standing water. The governing authority must by resolution adjudicate the actual cost of cleaning the property under this provision, provided the same does not exceed \$250. The cost may become a civil debt against the property owner, and/or, at the option of the governing authority, an assessment against the property.

HCR 82 - Resolution Encouraging Magnuson-Stevens Act Revisions

Sponsored by Reps. Bounds, Anderson, Baria, Barnett, Barton, Bennett, Busby, Crawford, DeLano, Eure, Haney, Ladner, Patterson, Read, Williams-Barnes, Willis, and Zuber

Encourages revisions to the Magnuson-Stevens Act that will provide a better use of and access to the nation's fisheries.

Specifically, the bill supports the following revisions:

- Provide flexibility to rebuilding plans;
- Provide alternative management strategies;
- Increase public involvement and transparency when scientific data are developed;
- Facilitate greater incorporation of data, analysis, stock assessments, and surveys from state agencies and nongovernmental sources; and
- Repeal Section 407 of the act and give the Gulf of Mexico Fishery Management Council the authority to use alternative fishery management measures for recreational fisheries.

Land Management and Conservation

SB 2893 - Authorizing the Donation of Certain Submerged Lands

Sponsored by Sen. Blount

Authorizes the secretary of state to donate certain submerged lands located in Jackson County, Mississippi, to the National Park Service.

Mississippi retains all mineral rights to the real property sold or leased under the act.

Reorganization and Coordination

HB 1525 - Establishes the SRDA Alliance

Sponsored by Reps. Mims, Cockerham, Johnson, Mangold, Pigott, and Middleton

Authorizes the establishment of the Scenic Rivers Development Authority Alliance (SRDA Alliance).

For the purposed of this act, “Alliance” means an alliance between the Board of Supervisors of Pike, Amite, Walthall, and Franklin Counties, the Board of Mayor and Selectmen of the City of McComb, the Board of Wilkinson County Industrial Development Authority, and the Trustees of the Pike County Economic Development District. Any additional members may be approved by unanimous consent of the alliance members.

The board is tasked with securing and furthering industrial and commercial development, management of recreational facilities, and promoting the use of natural resources and possibilities of the alliance.

The SRDA will have the authority to acquire by gift, purchase, or otherwise, and to own, hold, maintain, control, and develop real estate situated within the county or counties comprising such alliance for the development, use, and operation of industrial parks, recreation, natural resources development, tourism, or other economic development purposes.

Further, the alliance is authorized and empowered to engage in works of internal improvement, therefor including, but not limited to, construction or contracting for the construction of streets, roads, railroads, spur tracks, site improvements, water, sewage, drainage, pollution control, and other related facilities necessary or required for economic development purposes or the development of industrial park complexes, recreation facilities, and natural resource improvements; to acquire, purchase, install, lease, construct, own, hold, equip, control, maintain, use, operate, and repair other structures and facilities necessary and convenient for the planning, development, use, operation, and maintenance of an industrial park or parks or recreation facilities or for other economic development purposes, including, but not limited to, utility installations, purchase of property, elevators, compressors, warehouses, buildings and air, rail, and other transportation terminals and pollution control facilities.

Solid Waste

SB 2485 - Public Hearing Requirements for Solid Waste Management Permits

Sponsored by Sen. Burton

Revises the public hearing requirements for solid waste management permits issued by the Mississippi Environmental Quality Permit Board to match those for commercial hazardous waste management permits.

Water Quality and Pollution Control

HB 331 - Reenactment and Clarification Regarding the Mississippi Individual On-site Wastewater Disposal Law

Sponsored by Rep. Mims

Reenacts several sections of Mississippi code including The Mississippi Individual On-Site Wastewater Disposal Law. The measure also clarifies language regarding the location or protection of a private water

supply in order for an individual on-site wastewater disposal system to be considered acceptable. Any private water supply must be located at a higher elevation or it must be properly protected, and at least fifty feet from the individual on-site wastewater disposal system and at least 100 feet from the disposal field of the system.

The measure also extends the date of the repealer on the Mississippi Individual On-Site Wastewater Disposal Law.

HB 1620 - Water Distribution System Expansion Authorization in Fulton

Sponsored by Rep. Bell

Authorizes the governing authorities of the city of Fulton, Mississippi, to expand its water distribution system within a certain distance outside the corporate limits of the city of Fulton.

SB 3025 - Water Distribution System Expansion Authorization in Corinth

Sponsored by Sen. Parks

Authorizes the governing authorities of the city of Corinth in Alcorn county, Mississippi, to expand its water distribution system in the corporate limits of the city of Burnsville in Tishomingo County, Mississippi, that are more than five miles outside the corporate limits of the city of Corinth.

The measure also authorizes the governing authorities of the city of Burnsville, Mississippi, to contract with the city of Corinth for the purchase of water.



MISSOURI

“ Missouri adopted 16 energy and environmental bills during the 2018 legislative session. Notably, SB 564 is an extensive bill that both requires electrical corporations to invest in utility-owned solar facilities and enacts twelve new sections of law relating to public utilities. SB 972 is another wide-ranging bill that establishes the Missouri Energy Freedom Act and the Alternative Regulation for Electrical Corporations Act. ”

Energy Legislation

Alternative Energy Development

SB 564 - Utility-Owned Solar Facilities Investment Requirement

Sponsored by Sen. Emery

Requires electrical corporations to invest in utility-owned solar facilities.

Electrical corporations with more than one million Missouri customers must invest \$14 million, corporations with less than one million but more than 200,000 customers must invest \$4 million, and corporations with 200,000 or fewer customers must invest \$3.5 million in utility-owned solar facilities located in Missouri or an adjacent state between the effective date of this act and December 31, 2023.

If the rate impact of investment in such facilities would cause the electrical corporation to exceed a one percent maximum average retail rate increase, such excess costs must be deferred to a regulatory asset, including carrying costs at the electrical corporation's weighted average cost of capital, and must be recovered in rates. Permission from the Public Service Commission for construction of such facilities may not be required.

Beginning January 1, 2019, this act requires electrical corporations to make available solar rebates in amounts set forth in this act. Such rebates must apply to new or expanded solar electric systems up to 25 kW for residential customers, and up to 150 kW for nonresidential customers. Such rebates must also not exceed certain limitations set forth in this act, including that electrical corporations with more than one million Missouri customers must not be obligated to pay rebates exceeding \$5.6 million per year, or \$28 million in the aggregate from 2019 to 2023. Electrical corporations less than one million but more than 200,000 customers must not be obligated to pay rebates exceeding \$1.6 million per year, or \$8 million in the aggregate from 2019 to 2023. Electrical corporations with 200,000 or less Missouri customers must not be obligated to pay solar rebates exceeding \$1.4 million per year, or \$7 million in the aggregate.

Under this act, electrical corporations must be permitted to recover the cost of all solar rebate payments through rates and to defer and amortize the recovery of such costs, including interest at the corporation's short-term borrowing rate, with such recovery not to exceed five years. If recovery of such costs would cause the electrical corporation to exceed a one percent maximum average retail rate increase, such excess costs must be deferred to a regulatory asset, including carrying costs at the electrical corporation's weighted average cost of capital and must be recovered in rates.

Any reductions in electrical corporation loads because of the installation of solar systems not owned by the electrical corporation must constitute conservation. This section expires on December 31, 2023, except that any regulatory asset balance created under this section must be recoverable after such date.

SB 972 - The Missouri Energy Freedom Act and the Alternative Regulation for Electrical Corporations Act

Sponsored by Sen. Romine

Establishes the Missouri Energy Freedom Act and the Alternative Regulation for Electrical Corporations Act.

The Missouri Energy Freedom Act allows a contract customer to enter into a renewable energy contract with an owner or developer of a renewable energy facility for the sale of electricity to meet the customer's energy needs. Such customer must have a minimum annual peak demand of one megawatt, and such contract must provide for the pricing and duration of the contract. Nothing must prevent an electrical corporation

from entering into a renewable energy contract directly with a contract customer, in which case the Public Service Commission must allow the corporation to recover its incurred cost of renewable generation procured under the contract that is not otherwise recoverable. The right to any renewable energy credit or other environmental attribute associated with the sale of electricity under a renewable energy contract must transfer to the contract customer, except if the contract provides otherwise.

This act requires electrical corporations to take certain actions. Within 30 days after receiving notice of a renewable energy contract and request from a contract customer, the electrical corporation must contract with the renewable energy facility and purchase the required electricity for resale and sell such electricity to the customer. Within 60 days of the Public Service Commission promulgating rules under this act, an electrical corporation must submit a tariff for approval to facilitate the delivery of electricity under renewable energy contracts. Such tariff must include rates for the recovery of certain items set forth in this act.

Under this act, the customer must be responsible for any federal jurisdictional costs required by the regional transmission organization to which the electrical corporation is a member. Further, when the amount of renewable energy sold under renewable energy contracts equals five percent of an electrical corporation's total retail sales in a calendar year, the corporation must no longer be required to allow use of its transmission and distribution system. This five percent calculation must not apply to new customers.

This act also allows an owner or developer of a renewable energy facility to enter into a contract for the sale of electricity to a customer of an electrical corporation if the electricity is supplied by a renewable energy facility located entirely on the customer's premises and the output of which is intended entirely for use at the customer's premises. An electrical corporation must not be entitled to recover any costs under such contract and must not be required to compensate such customer for any excess energy supplied to the grid.

Within 180 days of the commission promulgating rules, an electrical corporation must submit a tariff for approval establishing a portfolio of voluntary renewable purchase programs. Such programs must be offered until the corporation's retail sales from renewable energy contracts exceeds five percent of total retail sales. Such programs must be based on actual costs, must recover any incremental costs only from participating customers, and must transfer any renewable energy credit or other environmental attribute to the customer.

The Alternative Regulation for Electrical Corporations Act allows electrical corporations to file an application with the Public Service Commission to participate in the Alternative Regulation for Electrical Corporations Act and seek discontinuance of certain rate adjustment mechanisms along with the application. If such corporation files such notice, the corporation must not assert any claims that compound annual growth rate limitations set forth in this act constitute a constitutionally prohibited taking.

Along with the application, the electrical corporation must submit to the Public Service Commission a five-year capital investment plan, as well as a specific capital investment plan for the first year. The commission must, through a report and order, establish minimum capital investment levels, which must be at least 20 percent higher than investments made from 2015-2017. The commission must also approve the electrical corporation's application if it meets certain criteria set forth in this act.

In any rate proceeding occurring due to an electrical corporation's application to participate in the Alternative Regulation for Electrical Corporations Act, the commission must examine each regulatory tracking mechanism. The commission must order the discontinuation of each rate adjustment mechanism unless it is in the public interest and if the electrical corporation has sufficient incentives to manage the tracked expense. Further, as part of the commission's report and order, the commission must specify the cost and revenue components that form the basis of rates charged to customers so that subsequent rate increases can be conducted in a streamlined and expedited fashion.

Any participating electrical corporation can discontinue participating in the Alternative Regulation for Electrical Corporations Act but may not elect to participate at any point after such discontinuance.

Under this act, rate proceedings must be considered file and suspend general rate proceedings, provided that the Public Service Commission may suspend operation of certain schedules for no longer than 150 days. Each participating electrical corporation must file an annual general rate proceeding, and the commission must establish minimum filing requirements for such proceeding. The commission must establish rates for the corporation using a test year, and the corporation's return on equity must be 9.2 percent, adjusted to reflect bond yields. Further, the commission must exclude certain items from recovery in rates as set forth in this act. Nothing in this act must limit the ability of any entity to file a complaint.

If the participating electrical corporation's average base rate reflects a compound annual growth rate of two percent or higher, the Public Service Commission must only increase rates two percent, unless the commission determines that a force majeure event has occurred. Further, if any rate adjustment mechanism authorized by the Renewable Energy Standard or the Missouri Energy Efficiency Investment Act would cause such two percent limitation to be exceeded, the corporation must reduce rates charged to ensure that such two percent is not exceeded.

An electrical corporation must submit a report to the Public Service Commission within one year and three months of certain dates detailing actual capital investments made. If the corporation has failed to complete the specific capital investment plan for the previous year, the corporation must establish a regulatory liability equal to two times the difference between the capital investments plan and the actual investments made. The regulatory liability must be amortized over a reasonable period, and the corporation must not seek to recover the funds from customers.

This act requires electrical corporations to file quarterly surveillance monitoring reports consisting of rate base quantifications, capitalization quantifications, an income statement, a jurisdictional allocation factor, and financial data notes, as set forth in this act. Further, this act requires the Public Service Commission to prepare and file a report with the General Assembly on the impact of the Alternative Regulation for Electrical Corporations Act on electrical corporations and their customers. This act expires on December 31, 2028.

Coal and Minerals

SB 917 - Repealing Fly Ash Exemptions from Solid Waste Permitting Requirements *Sponsored by Sen. Crawford*

Repeals the exemption from solid waste permitting requirements for all fly ash produced by coal combustion generating facilities located in Kansas City.

This act also gives the Department of Natural Resources the authority to promulgate rules for the management, closure, and post-closure of coal combustion residual (CCR) units. Under this act, "CCR unit" means a surface impoundment, utility waste landfill, or a CCR landfill. Prior to federal approval of a state CCR program, nothing may prohibit the department from issuing guidance or entering into agreements with CCR units owners to establish risk-based target levels using the Missouri risk-based corrective action program for closure and corrective action at CCR units.

Beginning January 1, 2019, the Department of Natural Resources may require each owner, operator, or permittee of a CCR unit to pay a fee. For units that are not closed, the department may assess an enrollment fee of \$62,000 per unit, and units that have completed closure may be required to pay an enrollment fee of \$48,000 per unit. Additionally, an annual fee may be assessed in the amount of \$15,000. Fees must be credited

to the Coal Combustion Residuals Subaccount created under this act. Interest must be imposed on moneys due to the department at a rate of ten percent annually, and the department may pursue penalties for failure to submit fees on time. The department may not apply standards to certain landfills unless data confirm an imminent threat to human health and the environment.

Emergency Management and Homeland Security

HB 1797 - Creating the Nuclear Power Plant Security Guard Act

Sponsored by Rep. Fitzwater

Establishes the Nuclear Power Plant Security Guard Act.

The bill specifies the levels of physical force, including deadly force, an armed nuclear security guard may use against another person at a nuclear power plant or within a structure or fenced yard of a nuclear power plant to prevent certain dangerous actions by the other person. An armed nuclear security guard, employer of an armed nuclear security guard, or owner of a nuclear power plant will not be subject to civil liability for conduct of an armed nuclear security guard that is permitted in the law. The bill also provides that if an offense that would be trespass in the first degree, a class B misdemeanor, occurs at a building of or on real property of a nuclear power plant, it will be a class E felony.

SB 627 - Establishing Ability to Waive Specific Fuel Supply Requirements

Sponsored by Sen. Munzlinger

Modifies provisions relating to agriculture.

Establishes that the Department of Agriculture director may waive specific requirements or establish temporary alternative requirements in the event of an extreme and unusual fuel supply circumstance. Such waiver must be as limited in scope and applicability as necessary and apply equally and uniformly to all persons and companies in the impacted fuel supply and distribution system.

Natural Gas and Petroleum

HB 1364/SB 782 - Expiration Date Extension for Petroleum Transport and Delivery Fees

Sponsored by Rep. Kidd; Sen. Cunningham

Extends the expiration date of fees collected for the transportation and delivery of petroleum products to August 28, 2024.

The bill also establishes the “Task Force on the Petroleum Storage Tank Insurance Fund.” The task force will be composed of the following eight members:

- Three from the House of Representatives and appointed by the Speaker of the House and the Minority Floor Leader;
- Three from the Senate appointed by the President Pro Tem and the Minority Floor Leader; and
- Two industry stakeholders.

The task force must conduct research and compile a report, by December 31, 2018, on certain topics relating to the petroleum storage tank insurance fund. The director of the Department of Agriculture is authorized

to waive certain testing standards for fuel in emergency situations so long as the waiver applies equally and uniformly to suppliers and distributors.

Utilities

HB 1880 - Encouraging Fiber Optic Infrastructure Development

Sponsored by Rep. Trent

Declares the intent of the general assembly to facilitate and encourage development of fiber optic infrastructure by rural electric cooperatives and modifies rules regarding eminent domain use by cooperatives.

In relation to the use of eminent domain when constructing or operating electric transmission and distribution lines, the bill modifies existing law to declare that if a property owner prevails against a rural electric cooperative or a cooperative subsidiary in a suit in trespass or in inverse condemnation filed after August 28, 2018, the trespass must be deemed permanent and the actual damages awarded must be the “fair market value,” which, notwithstanding any other provision of law, must always be greater than zero. In no case filed after August 28, 2018, may evidence of revenues or profits derived, nor the rental value of an assembled communications corridor, be admissible in determining “fair market value.” The bill adds that punitive damages may be assessed, and the property owner may be awarded additional compensation for any physical damages to the property directly resulting from the trespass, if any, and reasonable attorney’s fees, costs, and expenses.

SB 564- Modifying Requirements for Public Utility Rate Scheduling

Sponsored by Sen. Emery

Enacts twelve new sections relating to public utilities, with an emergency clause for a certain section.

Under this act, electrical corporations must be able to apply to the Public Service Commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings due to changes in customer usage due to weather and conservation. However, no electrical corporation may make an application to the commission if such corporation makes certain deferrals. This provision will apply to electrical corporations beginning January 1, 2019, and will expire on January 1, 2029.

Public utilities that utilize a rate schedule authorizing periodic rate adjustments outside of a general rate proceeding due to changes in customer usage must file a quarterly surveillance monitoring report. Such reports must consist of the following parts:

- A rate base quantifications report;
- A capitalization quantifications report;
- An income statement;
- A jurisdictional allocation factor report; and
- Financial data notes.

This provision expires January 1, 2029.

The bill also modifies the procedure for complaints against public utilities. The complaint must set forth the act committed or omitted by the public utility in violation of any provision of law subject to the Public Service Commission's authority, or of any rule, utility tariff, order, or decision of the commission.

This measure also establishes that if an electrical corporation's rates have not been adjusted to reflect the federal 2017 Tax Cut and Jobs Act, the Public Service Commission must have a one-time authority to adjust such corporation's rates prospectively. The Public Service Commission must also require the corporation to defer to a regulatory asset the financial impact of such federal act for the period of January 1, 2018, through the date the corporation's rates are adjusted, and such asset must be included in the corporation's revenue requirement in its next general rate proceeding. Upon good cause shown by the electrical corporation, the Public Service Commission may, in lieu of the one-time rate change and deferral, allow a deferral in whole or in part of such federal act's financial impacts to a regulatory asset starting January 1, 2018, through the effective date of rates in the corporation's next general rate proceeding. Such deferred amounts must be included in the corporation's revenue requirement in its next general rate proceeding.

Under this act, the requirement that no public utility may begin construction of any plant or system without having first obtained the permission and approval of the Public Service Commission is waived for an energy generation unit that has a capacity of one megawatt or less.

Further, this bill requires electrical corporations that notify the Public Service Commission to defer and recover 85 percent of all depreciation expense and return for qualifying electric plant recorded to plant-in-service on the utility's books. An electrical corporation's election must allow it to make such deferrals until December 31, 2023, unless the corporation requests, and the Public Service Commission approves, continuation of such deferrals until December 31, 2028. The balance in the associated deferred regulatory asset account, except any prudence disallowances, must be included in determining the electrical corporation's rate base during subsequent general rate proceedings. Further, such regulatory asset balances must include carrying costs at the electrical corporation's weighted average cost of capital as set forth in this act, plus taxes, and must be amortized and recovered in rates over a period of 20 years.

This provision expires on December 31, 2028, except that an electrical corporation must obtain an order from the Public Service Commission to continue to utilize plant-in-service accounting from January 1, 2024, to December 31, 2028. The commission has the authority to grant or deny such approval based upon the commission's evaluation of the costs and benefits of such deferrals and the continuing need of the corporation but is not authorized to condition such approval or modify any deferrals or discounts authorized under this act. Under this act, no electrical corporation must notify the Public Service Commission to defer and recover such depreciation expense and return authorized if such corporation has been approved by the commission to make periodic rate adjustments outside of general rate proceedings due to changes in customer usage due to weather and conservation.

Beginning in 2019, this act requires electrical corporations that defer depreciation expense and return to file with the Public Service Commission a five-year capital investment plan, and a specific capital investment plan for the following year, on February 28 of each year setting forth capital expenditures the corporation will pursue in furtherance of replacing, modernizing, and securing its infrastructure. For each of the first five years that an electrical corporation defers depreciation expense and return, the purchase and installation of smart meters may constitute no more than six percent of capital expenditures during any given year under the plan. Further, at least 25 percent of the cost of each year's plan must be comprised of grid modernization projects, as set forth in this act.

Within 30 days of submitting such investment plan to the Public Service Commission, the electrical corporation must hold a public stakeholder meeting to answer questions and receive feedback on the plan. After feedback is received, the electrical corporation may file a notice with the commission to make

modifications to the investment plan that it has accepted. Further, changes to the plan must not constitute evidence of imprudence, and submission of the plan must not affect the Public Service Commission's authority to grant or deny any certificate of convenience and necessity. This act also requires electrical corporations, in every year that such corporation submits a capital investment plan, to submit a report to the commission detailing actual capital investments made the previous year. This provision expires on December 31, 2028.

This act allows the Public Service Commission to approve investments in small-scale or pilot projects if the project is designed to advance the electrical corporation's knowledge of deploying certain technologies, including gaining operating efficiencies that result in customer savings and benefits.

This act requires electrical corporations to make available discounted rates for qualifying customers upon application and upon a public announcement of a growth project through December 31, 2023, unless requested and approved by the Public Service Commission to offers such discounts through December 31, 2028. Any customer that receives local, regional, or state economic development incentives, that adds incremental load with average monthly demand of at least 300 kilowatt and a load factor of at least 55 percent within two years, and that meets criteria set forth in the electrical corporation's economic development rider tariff sheet, must qualify for a 40 percent discount average for up to five years on all base rate components, and an additional ten percent discount for one year after the expiration of the initial discount if the customer takes service from an under-utilized circuit.

This act also requires the cents per kilowatt-hour realization from such discounted rate to be higher than the electrical corporation's variable cost to serve such accounts and requires the discounted rate to make a positive contribution to fixed costs associated with such service. If in a subsequent general rate proceeding, the Public Service Commission determines the discounted rate is not adequate to cover such costs, the commission will increase the rate prospectively to the extent necessary to do so. This provision expires on December 31, 2028, except that an electrical corporation may obtain an order by the Public Service Commission to continue to utilize plant-in-service accounting from January 1, 2024, to December 31, 2028, to continue to provide the discounts allowed under this act.

This measure also requires electrical corporations with more than one million Missouri customers to develop a qualification process for contractors seeking to provide construction services for distribution system projects. Contractors must have the opportunity to register on the electrical corporation's vendor registration site and be evaluated for bid opportunities. The electrical corporation may specify the eligibility requirements that the contractor must meet to qualify to participate in the competitive bidding process, and the electrical corporation must not weight any contractor favorably or unfavorably due to an affiliation with a union, except when work is being performed under a project labor agreement. Contractors that meet the eligibility requirements must be able to participate in the competitive bidding process, and the contractor making the lowest and best bid must be awarded such contract. Within 30 days of the effective date of this act, the electrical corporation must file a verified statement with the Public Service Commission stating that it has in place a pre-qualification process. Any general rate proceeding filing thereafter must be accompanied with a verified statement that the electrical corporation is using a competitive bidding process for installing no less than ten percent of combined external installation expenditures in Missouri for construction services on distribution system projects. Nothing in this act may require an electrical corporation to use a qualified contractor or competitive bidding process in the case of an emergency or to terminate any existing contract prior to its expiration. The Public Service Commission must prepare a report for the General Assembly annually, with the first report being submitted by December 31, 2020, on the process established under this act.

This act requires an electrical corporation that elects to defer certain depreciation and return for electric plant placed-in-service, to hold constant the corporation's base rates for three years for electrical corporations with more than 200,000 Missouri customers, except such rate may not be maintained if the Public Service Commission determines that a force majeure event has occurred. This limitation must not affect the electrical corporation's ability to adjust its non-base rates that arise from commission-approved rate adjustment mechanisms during such three-year period.

For electrical corporations that have a general rate proceeding pending before the Public Service Commission, if the difference between the corporation's average overall rate at any point, and the corporation's average overall rate as of the date new base rates are set in the corporation's most recently completed general rate proceeding completed prior to the electrical corporation electing to make such deferrals, reflects a growth rate of more than three percent, the corporation must not recover any amount in excess of three percent as a performance penalty. For electrical corporations that do not have a general rate proceeding pending before the Public Service Commission, if the difference between the corporation's average overall rate at any point, and the average of the corporation's average overall rate as of the date new base rates are set in the corporation's most recently completed general rate proceeding completed prior to the electrical corporation electing to make such deferrals, and the corporation's average overall rate set due to the implementation of the federal 2017 Tax Cut and Jobs Act, reflects a growth rate of more than 2.85 percent, the corporation may not recover any amount in excess of 2.85 percent as a performance penalty.

If a change in rates charged under any existing commission-approved rate adjustment mechanism would cause the corporation's rate to exceed the three percent or 2.85 percent limitation, respectively, the corporation must reduce the rates charged under that adjustment mechanism in an amount to ensure such limitation is not exceeded and defer any unrecovered amounts to a regulatory asset to be recovered and amortized in base rates.

Further, if the difference between the electrical corporation's class average overall rate and the class average overall rate of the date new rates are set in the corporation's most recently completed general rate proceeding completed prior to the electrical corporation electing to make such deferrals reflects a growth rate of more than two percent for the large power service rate class, then such increase must be limited to two percent with such reduced revenues arising from limiting the large power service rate class to be allocated to all other customers.

SB 705 - Modifying Procedures for Rate Schedule Approval for Certain Utilities *Sponsored by Sen. Riddle and Rep. Bondon*

Modifies provisions relating to rate adjustments outside of general rate proceedings for certain public utilities.

This act allows water corporations with more than 8,000 customers to make an application to the Public Service Commission to approve rate schedules outside of a general rate proceeding to ensure that revenues billed for services equal the revenue requirement for such services due to changes in customer usage.

This act also requires water corporations with more than 1,000 customers to develop a qualification process for contractors seeking to provide construction services for planned infrastructure projects on the water corporation's distribution system. The water corporation must specify qualification requirements and goals for contractors seeking to perform such work, and contractors that meet the eligibility requirements must be able to participate in the competitive bidding process, and the contractor making the lowest and best bid must be awarded such contract. For contractors not qualifying through the competitive bid process, the water corporation must provide, if requested, information as to how to be better positioned to qualify for such bid opportunities in the future. Nothing in this act may be construed to require any water corporation to use third

parties instead of its own employees for such work, in the case of an emergency project, or to terminate any contract.

Within 30 days of the effective date of this act, the water corporation must file a statement with the Public Service Commission stating that it has established a qualification process and that such process is used for no less than ten percent of such planned infrastructure projects.

Finally, this act requires the Public Service Commission to submit a report to the General Assembly on the effects of this section by December 31, 2020.

SB 782 - Modifying Limit on Grants for Certain Utility Projects *Sponsored by Sen. Cunningham*

Raises the limit on grants in aid made available by the Department of Natural Resources to assist in financing certain utility projects from \$1,400 to \$3,000 per connection by this bill.

Environmental Legislation

Emergency Management and Homeland Security

HB 1355 - Retired Officer Response in an Emergency *Sponsored by Rep. Phillips*

Allows retired police officers to return to work when a disaster or emergency has been proclaimed by the Governor or there is a national disaster.

Environmental Health Services

HB 2034 - Establishing an Industrial Hemp Agricultural Pilot Program *Sponsored by Rep. Curtman*

Creates an industrial hemp agricultural pilot program to be implemented by the Department of Agriculture and specifies the requirements for an applicant of an industrial hemp registration and agricultural hemp seed production permit. The department must issue a license or permit to an applicant who meets the statutory requirements, upon satisfactory completion of a state and federal fingerprint criminal history background check, and who signs a waiver that holds the department harmless in the event a lawsuit occurs, or the growth, processing, or other specified actions related to industrial hemp or seed is declared illegal under federal law. Upon issuance of a license or permit, information regarding all license and permit holders must be forwarded to the State Highway Patrol.

This bill also specifies that food may not be considered adulterated solely for containing industrial hemp or an industrial hemp commodity or product.

Hazardous Waste and Substance Management

SB 782 - Extending the Lead-acid Battery Fee Expiration

Sponsored by Sen. Cunningham

Modifies provisions relating to the Department of Natural Resources.

This act extends the lead-acid battery fee's expiration to December 31, 2023. Monies collected from the fee must be credited to the Hazardous Waste Fund.

Inland Water Resource Management and Conservation

HB 2116 - Modifying Watercraft Operational Requirements

Sponsored by Rep. Ross

Declares that the operator of a watercraft that is in violation of the requirement that the watercraft be equipped with a personal flotation device for each person on board be guilty of an infraction and fined not more than \$25.

The bill also specifies that the owner of any watercraft in violation of the slow-no wake provisions will be guilty of an infraction and fined not more than \$25. Court costs will not be imposed for these infractions. Certain vessels propelled by outboard jet motors and operating on non-impounded waterways are exempted from the passenger seating, guard, and rail provisions.

Radioactive Waste

SB 782 - Establishing the Radioactive Waste Investigation Fund

Sponsored by Sen. Cunningham

Modifies provisions relating to the Department of Natural Resources (DNR).

This act also establishes the "Radioactive Waste Investigation Fund", which must be used solely by DNR to investigate concerns of exposure to radioactive waste. Under this act, the Fund may receive up to \$150,000 from the Hazardous Waste Fund, and any funds remaining in the fund at the end of the biennium must revert to the credit of the Hazardous Waste Fund.

Water Quality and Pollution Control

SB 782 - Modifying Provisions for Use of Potable Water and Rainwater Collection Systems with Private Water Systems

Sponsored by Sen. Cunningham

Modifies provisions relating to the Department of Natural Resources.

All Missouri landowners must have the right to have and use systems for potable water and systems for rainwater collection alongside private water systems, according to this bill.

This act exempts agricultural storm water discharges and return flows from irrigated agriculture from clean water permitting requirements and prevents such discharges and flows from being considered unlawful unless they have entered waters of the state rendering them harmful, detrimental, or injurious to public health, safety, or welfare, or to industrial or agricultural uses, or to wild animals, birds, or fish. Nothing in this act may supersede current law relating to concentrated animal feeding operations.



NORTH CAROLINA

“North Carolina adopted 21 energy and environmental bills during the 2018 legislative session. For example, this year HB 56 requires the DEQ to issue permits for a mining operation for the operation’s “life-of-site” for mining operations occurring on property leased from a public entity. The development of a state water supply plan assuring “the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth...” is repealed by this bill at the request of the Department of Environmental Quality.”

Energy Legislation

Coal and Minerals

HB 56 - Permitting Requirements for Mining Operations

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

Requires the Department of Environmental Quality (DEQ) to issue permits for a mining operation for the operation's "life-of-site" for mining operations occurring on property leased from a public entity. "Life-of-site" is defined under the act to mean the period from the initial receipt of a permit from the operation until the mining operation terminates and the reclamation required under the approved reclamation plan is completed. For mining operations conducted on real property that is leased from a public entity, DEQ must issue a permit for the operation's "life-of-lease," which is defined under the act to mean the duration of the lease between the owner or operator of the mining operation and a public entity.

The term "public entity" includes the state, any state agency, state college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State. A public hearing will not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease. The bill also limits the amount of the bond an applicant must file and maintain in force to an amount not to exceed \$1 million, and it adds an annual operating fee of \$400 per permit for a mining operation.

Emergency Management and Homeland Security

HB 374 - Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Modifies existing statute to eliminate the reference to "annual" renewals of pre-certification for persons who transport essentials in commerce, or assist in ensuring their availability, and persons who assist in the restoring of utility services. The intent is to allow the Department of Public Safety secretary greater discretion in terms of timing for renewals of pre-certification.

Energy Efficiency

HB 573 - Exempting Residential Garages from Energy Efficiency Codes

Sponsored by Reps. Faircloth, Ross, Blust, and Brockman

Requires the Building Code Council to provide an exemption from energy efficiency codes for residential garages.

Natural Gas and Petroleum

HB 5 - Modifying Remedial Action Plan Requirements

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

The bill adds discharges or releases of petroleum from aboveground storage tanks (AST) and other sources (discharges or releases not from an Underground Storage Tank [UST] or AST) to the requirement that a remedial action plan for cleanup of the contamination or release from these sources include an agreement to record a notice of any applicable land-use restrictions. The measure also adds discharges or releases of petroleum from ASTs and other sources (discharges or releases not from an UST or AST) to the requirement for recordation of such a notice.

HB 374 – Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Clarifies the language enacted in 2017 regarding the requirements for sites with offsite contamination from aboveground tanks and other petroleum sources.

The legislation also direct the Environmental Management Commission to amend the rules governing standards and requirements for underground storage tanks (USTs) to:

- Require that overfill protection equipment is checked for operability, proper operating condition, and proper calibration once every three years in accordance with federal law; and
- Allow UST owners and operators to use all test methods and equipment approved by the Environmental Protection Agency, including the use of a testable drop tube, for required UST testing.

Utilities

HB 351 - Providing for Fair Value Determination

Sponsored by Reps. Watford and Collins

Allows for water and wastewater utilities that acquire systems from municipalities, counties, or other governmental entities to use a fair value determination as an alternative methodology to establish a rate base.

According to the law, the system must receive three different appraisals, one of which must come from an appraiser representing the Public Staff of the Utilities Commission, and the averaging of the appraisals constitutes fair value. If the commission finds, however, that the average of the appraisals will not result in a reasonable fair value, the commission may adjust the fair value as it deems appropriate and in the public interest. The rate base must be the lesser of the purchase price negotiated between the parties to the sale or the fair value plus fees and costs authorized. The public utility must apply for commission approval to determine the rate base value of the acquired system. The application identifies deficiencies in the system, necessary infrastructure improvements for the next five years, and projected rate impacts for the next five years. The commission has the discretion to classify the acquired system as a separate entity for ratemaking purposes to avoid impacts to customers not served by the system.

HB 374 - Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Provides that a regional water facility is not required to increase the size of its wet detention ponds or decrease the amount of development or impervious surface for which it has been permitted based on an incorrect calculation in its stormwater management permit, but this would not apply to a regional water facility that intentionally provided inaccurate information upon which the incorrect calculation is based.

This law only applies to impervious surfaces built prior to January 1, 2017. Any impervious surface built on or after January 1, 2017, would be subject to the state's coastal stormwater laws.

Further, the measure adds the total delivered costs, including capacity and non-capacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recoverable under other methods, to the one percent cap on annual increases for a utility that has less than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006.

Finally, the bill prohibits a person from serving on the Utilities Commission or the Industrial Commission on an interim basis pending confirmation by the General Assembly if the person was subject to, but not confirmed by, the General Assembly within the preceding four years.

HB 956 - Authorizing Various Conditions for Dan River Plant Property Contract

Sponsored by Rep. Jones

Authorizes the city of Eden, by contract, to provide that the described Dan River Plant Property may not be annexed by the city between January 31, 2019, and December 31, 2023, and that the city may accept, as consideration for the contract, payments in lieu of taxes. Provided the modification does not materially alter the concept of the agreement, the parties may extend the agreement on mutual written consent, without further action of the general assembly, indefinitely.

The legislation specifies that the city will accept one million dollars as payment in lieu of taxes for the five-year period of the agreement. Duke Energy must make annual payments of \$200,000 during the course of the agreement. The bill also states that the city of Eden may not seek to repeal the local act.

Environmental Legislation

Air Quality and Pollution Control

HB 374 - Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Directs the Environmental Management Commission to implement rules to provide that the annual permit fee and permit application fee for a general permit for air curtain burner facilities with emissions below the Title V major source threshold that are subject to the Title V permitting program due to federal regulations that require the facilities to obtain a permit regardless of actual or potential emissions is ten percent of the otherwise applicable fee.

SB 677 - Protecting Right to Hunt and Fish
Sponsored by Sens. Britt, Sanderson, and McInnis

Directs that a constitutional amendment be submitted to the qualified voters of the state at a statewide general election to be held in November of 2018 to include language in the state's Constitution to provide that the people of the state have a right, including the right to use traditional methods, to hunt, fish, and harvest wildlife, subject only to laws enacted by the general assembly and rules adopted pursuant to authority granted by the general assembly to promote wildlife conservation and management and preserve the future of hunting and fishing.

In addition, the amendment would provide that public hunting and fishing be a preferred means of managing and controlling wildlife and that nothing in the language of the amendment "shall be construed to modify any provision of law relating to trespass, property rights, or eminent domain." If a majority of votes cast on the question are in favor of the amendment, the Bipartisan State Board of Elections and Ethics Enforcement must certify the amendment to the Secretary of State and the amendment would be effective upon certification.

Coastal Zone Management

HB 56 - Allowing Delegation of County Land-use Plan Approval
Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

This bill allows the Coastal Resources Commission to delegate approval of county land-use plans to any qualified employee of the Department of Environmental Quality and exempts minor permit applications from the requirement for notice by posting at the location of the proposed development.

The Coastal Storm Damage Mitigation Fund is established by this bill. It consists of General Fund appropriations, gifts, grants, devises, monies from non-state entities, and any other revenues allocated to the fund by the general assembly. Revenues in the fund may only be used for beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to ocean beaches and dune systems.

HB 374 - Regulatory Reform Act of 2018
Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Establishes that a subdivision is deemed to be fulfilling its coastal stormwater permitting requirements if the subdivision meets all of the following requirements:

- The subdivision's original declaration of covenants was recorded at least 20 years prior to the effective date of this act; and
- The original developer of the subdivision transferred the stormwater permit to the homeowners association for the subdivision and, at the time of the transfer, the homeowners association had no notice from the original developer or any regulatory agency that the subdivision was not in compliance with the impervious surface limitations.

Environmental Health Services

HB 56 - Repealing Plastic Bag Ban

Sponsored by Reps. McElraft and Yarborough

Repeals the prohibition on providing customers with plastic bags in certain areas of the state.

Inland Water Resource Management and Conservation

HB 56 - Modifying Riparian Buffer Rules

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

This bill directs the Environmental Management Commission (EMC) to modify the applicable rules governing protection of existing riparian buffers to exempt from the requirements of the rules buffers that are located in any publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the buffers pose a risk to public safety.

The EMC also is directed to modify the applicable rule governing protection of existing riparian buffers along the Catawba River in the mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin to exempt from the requirements of the rule any publicly owned property that will be used for walking trails.

This law instructs the Fiscal Research Division to estimate the value of property that is subject to state riparian buffer protection rules and that is being used as a riparian buffer for each county in a river basin to which the rules apply. The Fiscal Research Division must report its estimates and analysis to the Environmental Review Commission (ERC) and the Revenue Laws Study Committee no later than May 1, 2018.

The measure also requires the Department of Environmental Quality's Division of Water Resources to conduct a water quality sampling program for nutrients along the mainstem of the Catawba River, and require sampling for nutrients above, in, and below each major tributary of the Catawba River. The division must report the results of the study to the ERC no later than October 1, 2018.

Land Management and Conservation

HB 56 - Modifying Requirements for Risk-based Remediation Procedures

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

The act modifies financial assurance requirements for persons conducting risk-based remediation by allowing the Department of Environmental Quality (DEQ) to waive the financial assurance requirement if DEQ finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

- Annual reporting of land use controls; and/or
- The maintenance of durable or low-maintenance covers for contaminated soil.

The measure also allows direct transfers of conservation easements or interests in real property related to compensatory mitigation to a federal or state agency, a local government, or a private, nonprofit conservation organization, rather than have the transfer go through the Division of Mitigation Services of DEQ as an intermediate step.

HB 374 – Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Allows the Environmental Management Commission to renew a permit for a permanent erosion control structure originally permitted pursuant to a variance granted by the commission before July 1, 1995, if the commission finds that:

- The structure will not be enlarged beyond the dimensions set out in the original permit;
- There is no practical alternative to replacing the structure that will provide the same or similar benefits; and
- The replacement structure will comply with all applicable laws and with all rules in effect at the time the structure is replaced.

This section also allows the commission to authorize the repair or replacement of a temporary erosion control structure that was originally permitted prior to July 1, 1995, if the commission finds that the structure is located adjacent to an intertidal marine rock outcropping designated by the state as a Natural Heritage Area and the replacement structure will comply with all applicable laws and with all rules in effect at the time the structure is replaced.

Solid Waste

HB 56 - Establishing Applicability of Franchise Agreements for Sanitary Landfills

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

The measure provides that prior law addressing the duration of franchise agreements for sanitary landfills only applies to valid and operative franchise agreements in effect on October 1, 2015.

Limits local governments' authority to enact "flow control" ordinances to the following circumstances:

- If the unit of local government has debt associated with solid waste management facilities and equipment outstanding on September 1, 2017, the unit of local government may adopt and enforce such an ordinance until the date that such debt has matured.
- If the unit of local government incurs debt after September 1, 2017, and the issuance of the debt will be conditioned upon the unit of local government requiring that all waste collected within the county be disposed of within the landfill, for expansion of a landfill or construction of a new landfill after all necessary approvals for issuance of the debt have been obtained from the Local Government Commission (LGC), including a demonstration of need and cost, the unit of local government may adopt and enforce such an ordinance until the date the debt associated with expansion of the landfill, or construction of the new landfill, has matured.

- If the unit of local government is a party to an exclusive franchise agreement with a private entity governing the management or disposal of waste within the jurisdiction in effect on September 1, 2017, then the unit of local government may adopt and enforce such an ordinance until the date that such franchise has expired. Regional solid waste management authorities, and the units of local governments that are members of such authorities, are exempt from the limitations on flow control.

Regional solid waste management authorities, and the units of local governments that are members of such authorities, are exempt from the limitations on flow control. Notwithstanding these exemptions allowing flow control in certain circumstances, however, all local governments are banned from prohibiting the disposal of construction and demolition debris in any properly permitted sanitary landfill.

The act also establishes additional requirements for units of local government applying to the LGC to enter debt for the purpose of expansion of an existing landfill, or construction of a new landfill, within their jurisdiction.

In cases where a local government has, at the time it submits an application to the LGC for approval to enter such debt, adopted a “flow control” ordinance, the unit of local government is required to demonstrate both of the following to the satisfaction of the LGC:

- The proposed expansion of the existing landfill, or construction of the new landfill, for which debt is to be incurred is necessary to ensure reliable, convenient, and affordable solid waste disposal service is provided consistently to all citizens under its jurisdiction for the protection of public health, safety, and welfare; and
- The proposed expansion of the existing landfill, or construction of the new landfill, will result in lower overall costs per ton of waste disposed for the jurisdiction’s citizens and businesses within the jurisdiction than would be available through privately funded and operated disposal facilities. The analysis must consider all direct, indirect, asset retirement, closure, post-closure, and capital costs divided by tons disposed per year to establish a “tip fee” required to support the operation and repayment of the debt. State or federal subsidies must be disregarded for purposes of this analysis.

These requirements must be confirmed by way of a bid or request for proposals process in which private businesses have been invited to compete for the right to provide the services subject only to compliance with state and federal law.

HB 374 – Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Clarifies that not only does a life-of-site permit for a sanitary landfill located within a unit of local government survive expiration of an applicable franchise agreement, but the local government must allow the sanitary landfill to continue to operate until the term of the landfill’s life-of-site permit expires if the owner or operator has complied with the terms of the local government approval or franchise agreement and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired.

Water Quality and Pollution Control

HB 56 - State Water Supply Plan Development

Sponsored by Reps. McElraft and Yarborough

Amends various environmental laws.

The provision requiring the Department of Environmental Quality (DEQ) to develop a state water supply plan, with the stated purpose of assuring “the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth...” is repealed by this bill at the request of DEQ.

This legislation modifies the requirement that disposal systems permitted under the water quality or solid waste statutes have a compliance boundary beyond which groundwater quality standards may not be exceeded. Under this act, the provision governing multiple contiguous properties under common ownership provides that they would also be treated as a single property for the purposes of establishing setbacks to property lines.

This measure also establishes a General Assembly finding that the discharge of the poly-fluoroalkyl chemical known as “GenX” (CAS registry number 62037-80-3 or 13252-13-6) into the Cape Fear River demonstrates the need for supplemental funding for impacted local public utilities for the monitoring and treatment of GenX and to support the identification and characterization by scientists, engineers, and other professionals of GenX in the Cape Fear River. The bill mandates the following appropriations from the Contingency and Emergency Fund:

- \$100,000 to the Cape Fear Public Utility Authority (CFPUA), who must, in coordination with Brunswick County Public Utilities, Pender County Utilities, and other entities that withdraw, treat, and subsequently distribute water originating from the Cape Fear River, study the identification and deployment of water treatment technology to remove GenX from the public water supply. In addition, \$85,000 is appropriated to the CFPUA for ongoing monitoring of water supplies withdrawn from the Cape Fear River; and
 - The CFPUA must provide an interim report to the Environmental Review Commission (ERC) no later than December 1, 2017, regarding the progress in implementing this section, and a final report on or before April 1, 2018, to include any findings and recommendations for legislative action.
- \$250,000 to the University of North Carolina at Wilmington to identify and quantify GenX and measure the concentration of the chemicals in the sediments of the Cape Fear River, the extent to which the chemical biodegrades over time or bioaccumulates within local ecosystems, and what risk the contaminant poses to human health.
 - The University must provide an interim report to the ERC no later than December 1, 2017, regarding the progress in implementing this section, and a final report on or before April 1, 2018, to include any findings and recommendations for legislative action.

Further, the bill requires the North Carolina Policy Collaboratory at The University of North Carolina at Chapel Hill to develop a proposal for the creation of an online database to provide National Pollutant Discharge Elimination System (NPDES) and other water quality permits, permit applications, and relevant supporting documents to the public in a searchable and user friendly format, as well as creation of a system for electronic filing of applications for such permits and relevant supporting documents.

For purposes of wastewater system site evaluations, soil and site condition evaluations must be conducted by licensed soil scientists and geologic and hydrogeologic condition evaluations must be conducted by licensed geologists.

HB 374 – Regulatory Reform Act of 2018

Sponsored by Reps. McElraft, Howard, Johnson, and Hurley

Clarifies that for purposes of extending an improvement permit or authorization for a wastewater system construction permit's duration, site activities begun or completed pursuant to requirements from the local health department under the original permit may not be construed to be altered conditions and cannot constitute a basis for refusal of the permit extension. The law also provides that a property owner may contract with a licensed soil scientist to conduct a site verification to determine whether the conditions of the original permit are unchanged.

Further, the measure requires the Legislative Research Commission to study legislation that may be necessary to grant or clarify mandatory connection authority relating to use of the engineer option permit for wastewater and relating to multiple public systems operating as one, however constituted, or public-private partnerships.

The legislation also makes the following changes to the wastewater permitting statutes:

- Provides that replacement of a damaged gravity distribution box by an on-site wastewater contractor is not a repair to a permitted wastewater system;
- Repeals a provision that a wastewater system located on multiple adjoining lots or tracts of land under common ownership or control is considered a single system for purposes of wastewater permitting;
- Requires that evaluations conducted by a licensed soil scientist or a licensed geologist to produce design and construction features for a new proposed wastewater system or a proposed repair project for an existing wastewater system be approved by the applicable permitting authorities if:
 - The evaluation of soil conditions, site features, or geologic and hydrogeologic conditions satisfies all requirements of the wastewater system laws; and
 - The licensed soil scientist or licensed geologist conducting the evaluation maintains an errors and omissions liability insurance policy issued by a licensed insurer in an amount commensurate with the risk.
- Directs local boards of health to use historical experience to establish modifications or additions to rules established by the Commission for Public Health.

Also modified by this bill is the definition of “accepted wastewater dispersal system” to include other approved trench dispersal systems alongside systems deemed “innovative.”

It also directs the Environmental Management Commission to review the delegated stormwater management programs implemented by local government to determine:

- Which local governments are enforcing stormwater regulations more stringent than the requirements of state law, including inspection, maintenance of stormwater controls, and best management practices; and

- Which local governments have taken enforcement actions since August 1, 2015, based on requirements in Total Maximum Daily Load calculations or National Pollutant Discharge Elimination System permits that exceed the requirements of state law.

The commission must report its findings to the Environmental Review Commission no later than January 1, 2019.

HB 573 - Well Standard Rules Amendments

Sponsored by Reps. Faircloth, Ross, Blust, and Brockman

Direct the Environmental Management Commission to adopt rules to amend the Well Standard Rules consistent with the following:

- Reduce setback between wells serving single family homes and most types of septic tank systems from 100 feet to 50 feet;
- Reduce grouting depth requirement in certain areas from 35 feet below the surface to 20 feet below the surface;
- Increase the source water depth requirement in certain areas from 35 feet below the surface to 43 feet below the surface;
- Increase casing depth requirement in certain areas from 35 feet to 43 feet; and
- Change the well construction standards in certain areas from a casing depth of 35 feet to a casing depth of 43 feet with 20 feet of grout.

The commission also is directed to modify a rule that requires construction and demolition debris landfills to install and maintain a groundwater monitoring program, to decrease the frequency of required sampling from semi-annually to annually.



OKLAHOMA

OKLAHOMA

“ Oklahoma adopted 15 energy and environmental bills during the 2018 legislative session. This year, under energy legislation, Oklahoma established HB 3561/SB 1576, which prohibits construction or operation of a wind energy facility, or facility expansion, from encroaching upon or having a significant adverse impact on the mission, training, or operations of any military installation or branch. HB 1034 establishes an annual cap equal to \$5 million for coal tax credits effective tax year 2018. ”

Energy Legislation

Alternative Energy Development

HB 3561/SB 1576 - Wind Energy Facility Construction Prohibition in Certain Circumstances
Sponsored by Rep. Ortega and Sen. Schulz

Prohibits construction or operation of a wind energy facility, or facility expansion, from encroaching upon or having a significant adverse impact on the mission, training, or operations of any military installation or branch.

The measure also requires notice to the Oklahoma Strategic Military Planning Commission of intent to build a wind energy facility.

Coal and Minerals

HB 1034 - Establishing Cap on Coal Tax Credits
Sponsored by Reps. Wallace and David

Establishes an annual cap equal to \$5 million for coal tax credits effective in tax year 2018.

The measure directs the Oklahoma Tax Commission to use a percentage adjustment formula in determining a percentage by which the credits authorized are to be reduced to satisfy the \$5 million annual cap. In the event that the total tax credits authorized exceed the annual cap, the commission will permit any excess but must factor the excess into the percentage adjustment formula for subsequent years. Any credit that is unused because of the cap may be carried over until the credit can be fully used.

Energy Efficiency

HB 2959 - Ten-year Assessment of Electric Power and Energy Requirements Repeal
Sponsored by Rep. Thomsen and Sen. Quinn

Repeals the statute relating to the ten-year assessment of electric power and energy requirements, effective November 1, 2018.

HB 3536 - Defining Energy Conservation Measures and Energy Conservation Contract Modifications
Sponsored by Rep. Caldwell and Sen. McCortney

Expands the definition of “energy conservation measures” to include water-metering devices. The bill also extends the available repayment period of a lease-purchase agreement that funds an energy conservation contract and removes a requirement that those contracts and agreements be let under competitive proposal procedures.

Finally, the legislation removes a requirement that a state governmental entity proposing to enter into a performance-based efficiency contract consult with the State Bond Advisor.

Natural Gas and Petroleum

HB 2775 - Abandoned Title Procedures for Oil and Gas Operators

Sponsored by Reps. Osburn and Pugh

Provides that an oil and gas operator may deem all accrued proceeds of a lease to be abandoned if the title remains unmarketable for two years after the operator provides written notice of the unmarketable title.

HB 3430 - Modifying Purview of Petroleum Storage Tank Division of the Corporate Commission

Sponsored by Rep. Pfeiffer and Sen. Quinn

Consolidates multiple statutes relating to storage tanks, antifreeze, inspections and compensation for petroleum storage tank releases into a single act to be administered by the Petroleum Storage Tank Division of the Corporation Commission.

SB 997 - Underground Facility Definition Clarification

Sponsored by Sen. Rader and Rep. Thomsen

Clarifies the definition of an underground facility in the Underground Facilities Damage Prevention Act.

Specifically, the measure establishes that pipelines carrying gas, hazardous liquid, or carbon dioxide, as described in certain sections of the Code of Federal Regulations, are regulated by the act.

SB 1520 - Position Requirements for Oklahoma Liquefied Petroleum Gas Board Administrator

Sponsored by Sen. Quinn and Rep. Jordan

Changes position requirements for the Administrator of the Oklahoma Liquefied Petroleum Gas Board to allow two years' experience with managerial responsibility or as a liquefied petroleum gas safety enforcement officer.

The measure also doubles the maximum fine for a violation of the act, from \$500 to \$1000, and it removes an exemption from permit fees for trucks transporting liquefied petroleum gas out of the state.

Utilities

SB 893 - Zero-Emission Facility Production Tax Credit Cap Establishment

Sponsored by Sen. Quinn and Rep. Sears

Establishes an annual cap equal to \$500,000 for the zero-emission facilities electricity production tax credit effective in tax year 2019.

The cap is only applicable to credits that are earned from electricity produced by means of water, sun, or geothermal energy, according to the bill.

The measure directs the Oklahoma Tax Commission (OTC) to use a percentage adjustment formula to determine a percentage by which the credits authorized are to be reduced to satisfy the \$500,000 annual cap. In the event that the total tax credits authorized exceed the annual cap, the commission will permit any excess, but must factor the excess into the percentage adjustment formula for subsequent years. Unused credits may be carried over until they are fully used.

The measure also directs the OTC to submit an annual report to the Secretary of Energy and Environment, the Governor, and Legislature summarizing the amount of credits allowed each year. Within 60 days of receiving the report from the OTC, the Secretary of Energy and Environment will then be required to submit recommendations for changes to the tax credit to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.

Environmental Legislation

Emergency Management and Homeland Security

HB 3370 - Trespass Fine Modifications
Sponsored by Rep. Wallace and Sen. Sparks

Modifies the fine for the crime of trespass on private land devoted to farming, ranching, or forestry purposes.

The measure sets the fine for a first offense at not less than \$1,000. The fine for persons convicted of a second or subsequent offense is set at not less than \$2,500. The measure also modifies the fine for the crime of trespass with intent to commit waste, theft, or damage by setting the fine at not less than \$1,000 for first offense. The fine for persons convicted of a second or subsequent offense is set at not less than \$2,500.

Reorganization and Coordination

SB 1294 - Tribal Agency Cooperation Authorization
Sponsored by Sen. Pederson and Rep. Pfeiffer

Authorizes the Oklahoma Water Resources Board to cooperate with tribal agencies and use the tribal agencies' findings when conducting hydrological surveys and investigations.

The law also changes the maximum annual yield process to allow the board to phase in or delay the implementation of maximum annual yields if the landowners above the basin are not utilizing their equal proportional share. In addition, the measure allows for well spacing on basins without a yield study.

Solid Waste

SB 1412 - Used Tire Recycling Act Modifications
Sponsored by Sen. Schulz and Rep. McCall

Modifies the Used Tire Recycling Act by putting a cap on the amount of funds accumulated for the Department of Environmental Quality to perform certain duties required by the act.

The bill requires that any amounts in excess of the three-year average be deposited into the General Revenue Fund.

Water Quality and Pollution Control

HB 3405 - Groundwater Definition Expansion

Sponsored by Rep. Watson and Sen. Fields

Expands the definition of “groundwater” in the Oklahoma Groundwater Law to include marginal water.

SB 1147 - Department of Environmental Quality Jurisdiction Modifications

Sponsored by Sen. Simpson and Rep. Hardin

Modifies the Department of Environmental Quality’s jurisdiction to include duties within the agency’s scope that are necessary to implement Oklahoma Groundwater Quality Standards.

SB 1492 - Procedures for Admittance to the National Board Commission

Sponsored by Sen. Kidd and Rep. Hilbert

Extends the time frame, from 18 to 24 months, in which a deputy boiler inspector appointed in trainee status must receive a valid National Board Commission.

The measure also requires hot water supply heaters be inspected biennially at a minimum, and preferably annually.



PUERTO RICO

“ Puerto Rico adopted two energy and environmental bills since the 2017 Legislative Digest was published. SB 81 banned the deposit of coal ash or coal residuals in the territory. HB 1481 established the “Puerto Rico Electric System Transformation Act” for the purposes of authorizing the required legal framework for the sale, disposition and/or transfer of the assets, operations, functions and services of the Puerto Rico Electric Power Authority and establishing the necessary safeguards to ensure a just and transparent process. SSEB is helping to fulfill the duties set forth by the measure. ”

Energy Legislation

Coal and Minerals

SB 81 – Ban on the Deposit and Disposal of Coal Ash or Coal Combustion Residuals in Puerto Rico Act

Creates the “Ban on the Deposit and Disposal of Coal Ash or Coal Combustion Residuals in Puerto Rico Act,” which establishes the ban on the deposit and disposal of coal ash or coal combustion residuals as public policy.

The bill provides penalties for the deposit, disposal, and storage of coal ash or coal combustion residuals and direct the Environmental Quality Board to promulgate regulations.

Utilities

HB 1481 – Puerto Rico Electric System Transformation Act

Sponsored by Reps. Méndez Núñez, Torres Zamora, Ramos Rivera, Rodríguez Aguiló, Hernández Alvarado, Alonso Vega, Aponte Hernández, Banchs Alemán, Bulerín Ramos, Charbonier China, Charbonier Laureano, Del Valle Colón, Franqui Atilés, González Mercado, Lassalle Toro, Lebrón Rodríguez, Mas Rodríguez, Meléndez Ortiz, Miranda Rivera, Morales Rodríguez, Navarro Suárez, Pagán Cuadrado, Parés Otero, Peña Ramírez, Pérez Cordero, Pérez Ortiz, Quiñones Irizarry, Rivera Guerra, Rivera Ortega, Rodríguez Hernández, Santiago Guzmán, Soto Torres, and Torres González

Creates the “Puerto Rico Electric System Transformation Act” for the purposes of authorizing the required legal framework for the sale, disposition and/or transfer of the assets, operations, functions, and services of the Puerto Rico Electric Power Authority and establishing the necessary safeguards to ensure a just and transparent process.

The bill declares that any partnership agreement or sale agreement will be subject to the energy public policy and regulatory framework. For these purposes, a working group will be created, which will be responsible for preparing and recommending for the corresponding approvals the energy public policy and regulatory framework. The members of the working group will not receive any compensation for their work and may not have any direct or indirect proprietary interest in the entities that are part of a PREPA Transaction or in entities within or outside of Puerto Rico affiliated with, or interested in, those legal persons.

The working group will be designated by consensus between the Governor and the Presidents of both Legislative Bodies. The working group may receive advice and recommendations from the Southern States Energy Board and the Department of Energy, and any other person, entity or organization that the working group believes would be beneficial, without it being understood as an impairment or waiver by the Government of Puerto Rico and the Legislative Assembly of their constitutional prerogatives. Each of the Governor and the Presidents of the Legislative Bodies will suggest to the Southern States Energy Board four organizations for that entity to select the members of the Blue-Ribbon Task Force.

The energy public policy and the regulatory framework must be approved by the Legislature within a term not to exceed 180 days from the enactment of this act. Within that term, no partnership agreement or sale agreement related to a PREPA Transaction will be perfected. If this term elapses and the new energy public policy and regulatory framework are not approved, the Energy Compliance Certificate will be issued in accordance with applicable law. The provisions may not be understood as a limit to the power of the Legislative Assembly to establish the framework after the 180 day period has elapsed.



SOUTH CAROLINA

“ *South Carolina adopted eight energy and environmental bills during the 2018 legislative session. Notably, H 4875 establishes the “South Carolina Solar Habitat Act” to in order to promulgate voluntary solar best practices for commercial solar energy generation sites and to establish a native vegetation habitat and pollinator management plan to be used as technical guidance for the purposes of this act. H 4375 defines the terms imprudent and prudent and lists the items the Public Service Commission must consider in determining whether an action or decision is deemed prudent.* **”**

Energy Legislation

Alternative Energy Development

H 4875 - South Carolina Solar Habitat Act

Sponsored by Rep. Ott

Enacts the “South Carolina Solar Habitat Act” to establish voluntary best practices for commercial solar energy generation sites and to establish a native vegetation habitat and pollinator management plan to be used as technical guidance for the purposes of this act.

An owner of a ground-mounted commercial solar energy generation site is encouraged to follow voluntary site management practices that:

- Provide native perennial vegetation and foraging habitats beneficial to gamebirds, songbirds, and pollinators; and
- Reduce storm water runoff and erosion at the solar generation site.

An owner of a solar energy generation site implementing solar site management practices may claim that the site increases the habitat value by providing benefits to gamebirds, songbirds, pollinators, and small mammals only if the site adheres to guidance set forth by the wildlife habitat and pollinator plan provided by the Department of Natural Resources or any other gamebird, songbird, or pollinator foraging-friendly vegetation standard established by the department. An owner wishing to make a beneficial habitat claim must make the site’s vegetation management plan available to the public and provide a copy of the plan to the department for review.

Certificates of compliance may be issued to entities that meet solar site guidelines established by this act.

Utilities

H 4375 - Modifying Items PSC Must Consider in Terms of Prudence

Sponsored by Rep. McCoy

Defines the terms imprudent and prudent and lists the items the Public Service Commission (PSC) must consider in determining whether an action or decision is deemed prudent.

The bill also repeals sections of the Base Load Review Act and Judicial Review from existing legislation. However, the provisions of these acts continue to apply to projects or plants begun pursuant to an order issued under the acts, including any amendments, and must remain in effect for any matters or petitions pending before the PSC.

The legislation adds Chapter 34 to Title 58, which applies to rates for the investor-owned utility (South Carolina Electric and Gas Company) holding the majority interest in the V.C. Summer Nuclear Reactor Units 2 and 3. Further, the PSC must provide an experimental rate that customers must pay during ongoing litigation currently before PSC or any appeal therefrom or final resolution of any action in a court of competent jurisdiction or until replaced by an order of the PSC.

The measure requires the PSC to monitor the net effect of the experimental rate and may alter the experimental rate only if it determines that an adjustment to the experimental rate is necessary to satisfy

constitutional requirements. The PSC is not prohibited from adopting the experimental rate directed by the General Assembly as its own rate.

S 954 - Base Load Review Act Request Prohibition *Sponsored by Sen. Leatherman*

Prohibits the Public Service Commission (PSC) from issuing an order for requests made pursuant to the Base Load Review Act until ninety days after the South Carolina General Assembly adjourns Sine Die for the 2018 Legislative Session.

However, the law allows the PSC to issue an experimental rate order to revise the electric rates in accordance with existing statutes.

Environmental Legislation

Inland Water Resource Management and Conservation

H 3698 - Boundary Establishment of Intracoastal Waterway in Horry County *Sponsored by Rep. Moss*

Establishes geographical boundaries for the portion of the intracoastal waterway located in Horry County.

The bill revises the periods of time when striped bass may be taken in various bodies of water and revises the size, limits, and period for the taking of striped bass within various bodies of the Santee river.

The measure extends the deadline for the completion of the Department of Natural Resources study of the striped bass fishery on the Santee and Cooper river systems to January 2022.

H 4715 - Watercraft Registration Period Reduction *Sponsored by Rep. Kirby*

Reduces the registration period for watercraft from three years to one year and reduces the corresponding registration fee from \$30 to \$10.

This legislation also transfers the responsibility to print and mail watercraft certificate of number renewal notices from the Department of Natural Resources (DNR) to the county auditors. The county auditors will process the applications, transmit the fees to the appropriate state fund, and notify DNR to issue a renewed certificate decal. The statute becomes effective January 1, 2019, and will be phased in over a three-year period as existing registrations expire.

H 4946 - Polyploid Shellfish Permitting Modifications *Sponsored by Rep. Erickson*

Amends existing statute such that the Department of Natural Resources may grant permits to persons to possess, produce, purchase, or sell polyploid shellfish, and no polyploid shellfish may be placed in the waters of this state or waters connected to the waters of this state, except under the provisions of a permit issued by the department.

Solid Waste

H 4458 - Illegal Dumping Provision Modifications

Sponsored by Rep. Johnson

Restructures provisions related to the illegal dumping of litter on private and public property and waters of the state.

This measure expands the definition of solid waste and litter to include “cigarettes and cigarette component litter” rather than the previous “cigarettes and cigarette filters.” It also exempts littering on private property by the property’s legal owner or by a person granted permission by the owner.

The legislation also specifies that “illegal dumping” consists of the disposal of more than 15 pounds of any solid waste, litter, or other materials, including discarded, deceased animals, or animal parts that would constitute a public health hazard.

Further, the bill alters existing penalties for littering. The fine for littering in an amount weighing 15 pounds or less is changed from \$200 to \$25-\$100. It removes references to “public” service and requires that the mandatory eight-hour service component be either litter gathering or “community” service. In addition, this bill removes enhanced penalties for repeat violations of littering 15 pounds or less.

H 4644 - Solid Waste Emergency Fund Establishment

Sponsored by Rep. Dillard

Establishes a Solid Waste Emergency Fund, which will be administered by the Department of Health and Environmental Control (DHEC). This new fund will be created by the transfer of funds from the existing Solid Waste Management Trust Fund.

The department will be responsible for investigating waste management sites for the purpose of addressing emergency situations.

This law also requires all unpermitted facilities that recycle construction and demolition debris to register with and obtain a permit from DHEC.



TENNESSEE

“Tennessee adopted 17 energy and environmental bills during the 2018 legislative session. Most notable this year was the passage of the Primacy and Reclamation Act of Tennessee (HB 571/SB 686). This bill requires the Governor to take all action necessary request federal grant funding and apply to the federal government for Tennessee to assume primacy over the regulation of surface coal mining and reclamation operations within its borders.”

Energy Legislation

Coal and Minerals

HB 571/SB 686 - Primacy and Reclamation Act of Tennessee

Sponsored by Rep. Powers; Sen. Yager

Enacts the “Primacy and Reclamation Act of Tennessee” and revises other related provisions.

This bill requires the Governor to take all action necessary to request federal grant funding and apply to the federal government for Tennessee to assume primacy over the regulation of surface coal mining and reclamation operations within its borders.

To comply with the requirements of the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA), this bill does the following:

- Enacts a state law that provides for regulation of surface coal mining and reclamation operations in accordance with SMCRA;
- Establishes a civil penalty of up to \$5,000 per violation of the amendment or permit conditions, which is the same amount authorized for violations of SMCRA;
- Requires the Department of Environment and Conservation (TDEC) to serve as the state regulatory authority for surface coal mining and reclamation operations. In order to ensure that TDEC has sufficient administrative and technical personnel to regulate surface coal mining and reclamation operations in this state, this amendment requires the commissioner of TDEC to administer this amendment and employ qualified individuals as surface mine reclamation personnel;
- Ensures that TDEC has sufficient funding to regulate surface coal mining and reclamation operations in this state by establishing a schedule of application fees ranging from a high of \$3,850 for a new permit to a low of \$350 for a successor’s permit;
- Establishes an acreage fee, to be paid annually, of \$40.00 per affected acre for a site that has not been reclaimed and \$20.00 per affected acre for a site that has been reclaimed. The fee for an amendment of a coal mining permit is \$250. The fee for an amendment of a coal exploration permit is \$150. Local governments and state agencies are exempt from permit and acreage fees;
- Imposes an assessment of four cents on each ton of coal that is severed from the ground in underground mining operations and nine cents on each ton of coal that is severed from the ground in surface coal mining and reclamation operations. The monies collected from the application fees, acreage fees, and assessments will be deposited into the coal mining protection fund, created by this amendment, and used for the administration and enforcement of the requirements of this amendment;
- Requires the commissioner to establish a planning process enabling objective decisions to be made based upon competent and scientifically sound data and information as to which, if any, land areas of this state are unsuitable for all or certain types of surface coal mining and reclamation operations pursuant to the standards set forth in this amendment. Any aggrieved person will be authorized to petition the commissioner to have an area designated as unsuitable for surface coal mining and reclamation operations, or to have an existing designation terminated, and to have a public hearing on the petition;

- Requires the commissioner to establish a process whereby a single set of forms and information, submitted in multiple copies to the Division of Water Resources and the commissioner under this amendment must contain sufficient mutually needed information to serve as a basic application for the permits issued by the division and the commissioner; provided, the evaluation of applications are made cooperatively, and decisions to grant or deny the permits are made simultaneously. To the extent that TDEC regulates the use of explosives in surface coal mining and reclamation operations pursuant to this amendment, such activities will not be subject to duplicate regulation under the Tennessee Blasting Standards Act of 1975; and
- Requires the promulgation of rules consistent with federal law and regulations. The promulgation of rules under this amendment will be the responsibility of the Board of Energy and Natural Resources.

Finally, in order to create the Board of Energy and Natural Resources, this amendment increases the membership of the Board of Water Quality, Oil and Gas from nine members to 11 members and renames the board. The two new members of the board will be gubernatorial appointees, one of whom represents the coal mining industry and one of whom represents owners of coal reserves.

Natural Gas and Petroleum

HB 2233/SB 2524 - Authorizing Utilities to Contract with Public Corporation in Certain Circumstances

Sponsored by Rep. McDaniel; Sen. Ketron

Authorizes utility districts to enter into contracts or arrangements relating to natural gas with a public corporation that is created under the authority of a contiguous state and that is similar to an energy acquisition corporation created under the authority of this state.

Utilities

HB 88/SB 138 - Utility Board Training and Education Requirements

Sponsored by Rep. Calfee; Sen. Johnson

Requires members of certain utility boards of commissioners to meet training and continuing education requirements.

Further, the bill provides that failure to meet such requirements could result in the ineligibility to receive certain financial assistance or for members to be reelected or reappointed.

HB 119/SB 159 - Allowing for Payment Plans for Residential Gas Components

Sponsored by Reps. Marsh and Ragan; Sen. Hensley

Revises various provisions relative to utility districts, wastewater facilities, the Utility Management Review Board, and the Water and Wastewater Financing Board.

Specifically, the bill allows utility districts to sell certain appliances and heating systems with natural gas or propane component and to offer installment payment plans and financing to customers for such purchases.

HB 199/SB 112 - Underground Utility Damage Enforcement Board Extension
Sponsored by Rep. Faison; Sen. Bell

Extends the Underground Utility Damage Enforcement Board by two years to June 30, 2019, and adds an attendance requirement for members of the board.

HB 339/ SB 1266 - Regulatory Authority Jurisdiction Limitations
Sponsored by Rep. Moody; 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 certain levels of service and rate violations and granting appropriate relief.

HB 1503/SB 1581 - Utility Management Review Board Jurisdiction Clarification
Sponsored by Rep. Marsh; Sen. Johnson

Clarifies the entities under the jurisdiction of the Utility Management Review Board and the Water and Wastewater Financing Board include any treatment authority created by any public or private act of the general assembly.

HB 1734/SB 1745 - Loan Condition Requirement Modifications
Sponsored by Rep. Johnson; Sen. Johnson

Removes the Utility Management Review Board's authority to approve or disapprove corrections made by a public water system of a utility district to comply with federal or state law as a condition for the system to receive a loan from the Tennessee Local Development Authority.

HB 1791/SB 1812 - Underground Utility Damage Prevention Act Modifications
Sponsored by Rep. Marsh; Sen. Ketron

Makes various changes to the Underground Utility Damage Prevention Act, including authorizing the Underground Utility Damage Enforcement Board to establish, by rule, best practices for uniform color code and marking and adding an additional member to the board.

HB 1914/SB 1894 - Authorizing Use of Revenue from Municipality-owned Natural Gas Utility Systems
Sponsored by Rep. Gant; Sen. Gresham

Authorizes certain municipalities to fund chambers of commerce and economic and community organizations with revenue from a natural gas utility system owned by the municipality.

Further, the bill prohibits rate increases to cover contributions targeted for economic development efforts.

HB 2178/SB 1924 - Clarifying Exclusions for Financial Reports of Certain Utilities
Sponsored by Rep. Lundberg; Sen. Hazlewood

Clarifies that for the audited financial reports of certain self-sufficient utilities, non-cash charges arising from changes to or the implementation of pension and other post-employment benefit standards promulgated by the Government Accounting Standards Board are excluded when determining a change in net position.

HB 2233/SB 2524 - Authorizing Utilities to Contract with Public Corporation in Certain Circumstances

Sponsored by Rep. McDaniel; Sen. Ketron

Authorizes utility districts to enter into contracts or arrangements relating to natural gas with a public corporation that is created under the authority of a contiguous state and that is similar to an energy acquisition corporation created under the authority of this state.

HB 2338/SB 2292 - Declaring Online Classes a Method of Continuing Education Requirements

Sponsored by Rep. Sanderson; Sen. Bell

Authorizes online education courses as a method of compliance for continuing education requirements mandated for commissioners of a municipal utility board and requires the Treasury's comptroller to offer online education courses, beginning no later than March 1, 2019, for the purposes of compliance with continuing education requirements.

Environmental Legislation

Air Quality and Pollution Control

HB 1405/SB 1371 - Making Certificates of Exemption Permissive

Sponsored by Rep. Kiesling; Sen. Johnson

Revises various provisions concerning local air pollution control regulations.

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

Also, this measure 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.

HB 1782/SB 2656 - Abolishing Certain Vehicle Inspection and Maintenance Programs

Sponsored by Rep. Carter; Sen. Watson

Abolishes certain vehicle inspection and maintenance programs to maintain compliance with National Ambient Air Quality Standards and enacts related provisions subject to certain federal approval.

These provisions will take effect 120 calendar days following the date on which the Environmental Protection Agency approves a revised State Implementation Plan.

Environmental Health Services

HB 1017/SB 899 - Concentrated Animal Feeding Operation Definition Requirements
Sponsored by Rep. Hawk; Sen. Bell

Removes the authority for the Department of Environment and Conservation to define “concentrated animal feeding operation” more stringently than the federal law requires.

Water Quality and Pollution Control

HB 2313/SB 2229 - Establishing Compliance with a National Pollutant Discharge Elimination System
Sponsored by Rep. Lollar; Sen. Southerland

Specifies that compliance with a National Pollutant Discharge Elimination System Permit under the Water Quality Control Act will be deemed compliance for purposes of the provisions of the act in regard to certain requirements and procedures.

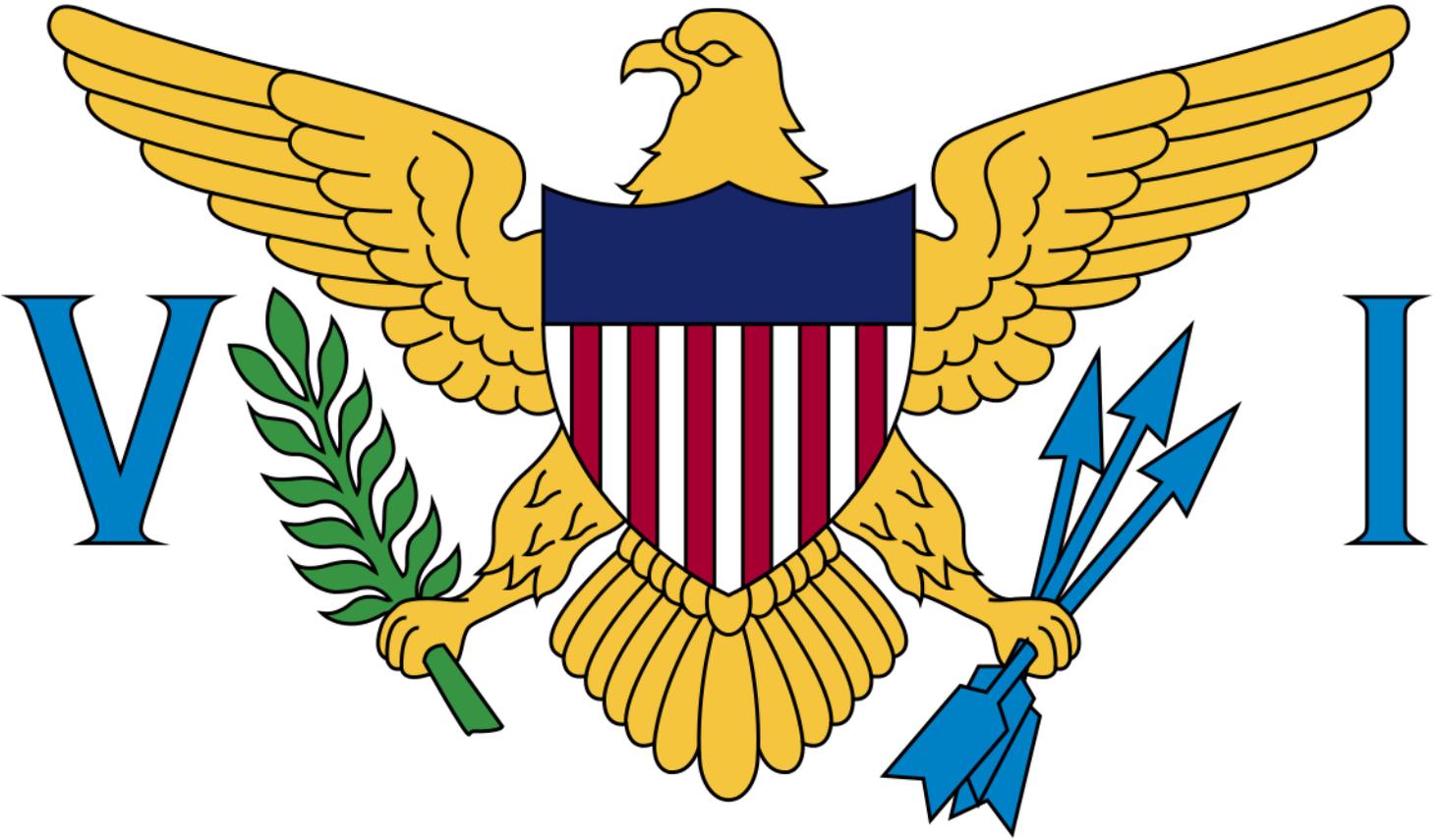
The bill prohibits the Department of Environment and Conservation from enforcing an action against a person discharging pollutants into waters of the state if the department was aware of the discharge of such pollutants or if the discharges were within the reasonable contemplation of the department prior to the issuance of a final permit. For the purposes of this bill, “reasonable contemplation” may be established by:

- The department’s common or general knowledge;
- The disclosure of discharges by the person discharging pollutants during the permit application process; or
- The submission of other information to the department, including comments made to the department by third parties or by other written means during the permit application process.



TEXAS

“ *Texas did not have a regular legislative session in 2018.* ”



U.S. VIRGIN ISLANDS

“ U.S. Virgin Islands adopted one energy and environmental bill since the 2017 Legislative Digest was published. The measure appropriates the sum of \$500,000, to the Economic Development Authority for the purpose of “energy efficient” retrofitting of the Industrial Park on the island of St. Croix. **”**

Energy Legislation

Energy Efficiency

B 32-0065 - Energy Efficiency Retrofitting Appropriation

Appropriates the sum of \$500,000, to the Economic Development Authority for the purpose of “energy efficient” retrofitting of the Industrial Park on the island of St. Croix.



VIRGINIA

“ Virginia adopted 36 energy and environmental bills during the 2018 legislative session. This year, several pieces of utility-related legislation passed, including SB 966 provides that, in lieu of the biennial review proceedings previously required, Dominion Energy Virginia and Appalachian Power will be subject to triennial reviews of their rates, terms, and conditions for generation, distribution, and transmission services. SB 698 authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications as such land-disturbing activities relate to construction of any natural gas transmission pipeline greater than 36 inches inside diameter to determine compliance. ”

Energy Legislation

Alternative Energy Development

HB 509/SB 179 – Comprehensive Plans for Solar Facilities

Sponsored by Del. Hodges; Sen. Stanley, Jr.

Provides that a solar facility subject to provisions requiring the facility to be substantially in accord with a locality's comprehensive plan may be deemed to be substantially in accord with the comprehensive plan if:

- Such proposed solar facility is located in a zoning district that allows such solar facilities by right; or
- Such proposed solar facility is designed to serve the electricity or thermal needs of the property upon which such facility is located, or will be owned or operated, by an eligible customer-generator or eligible agricultural customer-generator or by a small agricultural generator.

The bill also authorizes a locality to allow for a substantial accord review for other solar facilities to be advertised and approved concurrently in a public hearing process with a rezoning, special exception, or other approval process.

HB 1451 - Pilot Program for Schools Generating Electricity

Sponsored by Del. Sullivan, Jr.

Directs Dominion Energy Virginia to conduct a pilot program, not exceeding 10 megawatts in the aggregate, under which any public school in the Commonwealth that generates more electricity from a wind-powered or solar-powered generation facility than it consumes in a billing period may either credit the excess electricity to the metered accounts of one or more other schools in the school division or be paid for the excess electricity at the contractually negotiated rate.

SB 902 – Property Tax Exemptions for Solar Equipment and Facilities

Sponsored by Sen. Lucas

Limits the property tax exemption for solar equipment and facilities owned and operated by a business, which exemption currently applies to 80 percent of the assessed value of certain projects, to those projects equaling less than 150 megawatts.

The 150-megawatt cap applies only to projects for which an initial interconnection request form was filed on or after July 1, 2018, according to the bill.

Coal and Minerals

HB 665/SB 378 - Coalfield Employment Enhancement Tax Credit

Sponsored by Del. Kilgore; Sen. Chafin

Reinstates the Coalfield Employment Enhancement Tax Credit.

The credit, which expired on July 1, 2016, can be earned on and after January 1, 2018, but before January 1, 2023, and only for metallurgical coal, according to the bill.

HB 812 - Virginia Coal Surface Mining Reclamation Fund Advisory Board Modifications
Sponsored by Del. O'Quinn

Increases from five to seven the number of members on the Coal Surface Mining Reclamation Fund Advisory Board.

The legislation increases from three to four the number of representatives of the coal industry, removes the current member of the public without any coal industry interests, and adds two representatives of conservation interests.

The measure also authorizes the board to serve as the advisory body required by the Interstate Mining Compact to advise the Governor and Virginia's representative on the Interstate Mining Commission.

SB 807 - Permitting for Coal Combustion Residuals and Other Units
Sponsored by Sen. Surovell

Directs the director of the Department of Environmental Quality to suspend, delay, or defer the issuance of any permit to provide for the closure of any coal combustion residuals (CCRs) surface impoundment or other CCRs unit that no longer receives CCRs located within the Chesapeake Bay watershed until July 1, 2019.

According to the bill, these limits do not apply to a permit required for an impoundment where CCRs have already been removed and placed in another impoundment on site, are being removed from an impoundment, or are being processed in connection with a recycling or beneficial use project.

The measure also requires the owner or operator of such a CCRs surface impoundment or unit to issue a request for proposals (RFP) for entities to conduct recycling or beneficial use projects for the CCRs at such impoundment or unit. The RFP must require responding entities to provide information from which the owner or operator is able to determine, among other things, the cost of the recycling or beneficial use of the CCRs. The owner or operator is required by November 15, 2018, to transmit to the Governor and certain committees and agencies a business plan that compiles the information collected through the RFP process.

Energy Efficiency

HB 922/SB 908 - Electric Vehicle Charging Station Operational Provisions
Sponsored by Rep. Bulova; Sen. McClellan

Authorizes any locality or public institution of higher education, or the Department of Conservation and Recreation, to locate and operate a retail fee-based electric vehicle charging station on property such entity owns or leases.

The law allows a locality to limit the use of a retail fee-based electric vehicle charging station on its property to employees of the locality and authorized visitors and to install signage that provides notice of such restriction.

Further, the bill exempts such a locality, public institution of higher education, or the Department of Conservation and Recreation from being considered a public utility solely because of the sale of electric vehicle charging service or the ownership or operation of an electric vehicle charging station and further exempts such service from constituting the retail sale of electricity.

Natural Gas and Petroleum

SB 698 – Erosion and Sediment Control and Inspections of Natural Gas Pipelines

Sponsored by Del. Deeds

Amends current law relating to erosion and sediment control.

This bill authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications as such land-disturbing activities relate to construction of any natural gas transmission pipeline greater than 36 inches inside diameter to determine the following:

- Compliance with such annual standards and specifications,
- Compliance with any site-specific plans; and
- If there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities.

Further, the statute authorizes the department to issue a stop work instruction on the relevant part of the site when the department determines that there has been a substantial adverse impact to water quality or that a substantial and imminent adverse impact to water quality is likely to occur as a result of such land-disturbing activities.

The law also requires that upon written documentation of completion by the company and approval by the department in writing of the corrective measures specified in the stop work instruction, the instruction must be immediately lifted. Such stop work instruction may be appealed to the circuit court of the jurisdiction where the violation was alleged to have occurred or other appropriate court, according to the bill.

SB 699 – Stormwater Management and Inspections of Natural Gas Pipelines

Sponsored by Del. Deeds

Amends current law relating to stormwater management in an identical way to SB 698.

SB 950 – Interstate Natural Gas Pipeline Provisions for Construction and Review

Sponsored by Sen. Hanger, Jr.

Provides that, for the construction of certain natural gas transmission pipelines greater than 36 inches inside diameter, the issuance of a Virginia Water Protection Permit (VWPP) and an additional water quality certification for upland conditions must together constitute the certification required under § 401 of the federal Clean Water Act.

The bill requires the builder of a pipeline to submit an application to the Department of Environmental Quality describing all activities that will occur in upland areas and authorizes the department to request certain additional information from the applicant. The department is directed to determine whether any activities not addressed by the VWPP are likely to result in a discharge to state waters with the potential to adversely impact water quality and then to develop an additional certification containing any additional conditions for activities in upland areas.

Additionally, the measure directs the department to prepare a public notice of such draft certification conditions and to allow for public comment. It also requires an individual VWPP for impacts to state waters for the construction of any pipeline and requires that each wetland and stream crossing be considered as a single project, with an individual review of each proposed water body crossing with an upstream drainage area of five square miles or greater; however, the bill mandates only one individual VWPP addressing all water body crossings for each pipeline.

Further, the law requires that any pipeline be constructed in a manner that minimizes impacts to state waters and protects water quality to the maximum extent practicable, including by using certain best management practices.

The State Water Control Board is directed by the act to exempt the construction of pipelines from its general permits for the activities of certain utilities and public service companies and to complete its review of any individual permit application related to the construction of any pipeline within one year. The bill also prohibits an applicant from commencing a land-disturbing activity prior to approval by the department of an erosion and sediment control plan and stormwater management plan.

Finally, the bill authorizes the department to assess certain administrative charges in order to cover its costs.

Utilities

HB 955/SB 883 - Corporate and State Income Tax Modifications for Certain Companies *Sponsored by Del. Morefield; Sen. Stanley, Jr.*

Establishes an income tax modification for companies that, from 2018 through 2024, either:

- Invest at least \$5 million in new capital investment in a qualified locality and create at least 10 jobs paying at least 150 percent of the minimum wage in a qualified locality; or
- Create at least 50 jobs paying at least 150 percent of the minimum wage in a qualified locality.

A company is eligible to claim the modification only if it had no property or payroll in Virginia on the effective date of the act.

Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case may funds be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

The bill requires a company to obtain annual certification from the Virginia Economic Development Partnership Authority that the company will have a positive fiscal impact on Virginia, based on consideration of certain factors. It directs the authority to deny certification to any company that reorganizes for the purpose of taking advantage of the tax benefits provided by the bill.

HB 955 – Right-of-Way for Public Utility Vehicles

Sponsored by Del. Yancey

Authorizes vehicles used by any public utility company for the purpose of repairing, installing, or maintaining electric or natural gas utility equipment or service to use certain high-intensity amber warning lights.

The bill provides that if such a vehicle is stationary and displaying such lights, drivers must, if possible, make a lane change to the lane not adjacent to the vehicle or reduce speed and proceed with caution.

SB 922 – Rates and Tariff Modifications for Electric Utilities

Sponsored by Sen. Chafin

Directs the State Corporation Commission to exclude any debt associated with an electric utility's securitized bonds that are the obligation of non-Virginia jurisdictional customers from the capital structure and cost of capital of the utility when regulating its rates, terms, and conditions of service.

The measure also authorizes a utility to request an adjustment to a tariff that is revenue neutral to the utility during a biennial filing that does not result in an overall rate change.

SB 966 – Modifications to Electric Utility Regulation

Sponsored by Sen. Wagner

Provides that, in lieu of the biennial review proceedings previously required, Dominion Energy Virginia (DEV) and Appalachian Power (APCo) will be subject to triennial reviews of their rates, terms, and conditions for generation, distribution, and transmission services.

The measure advances the termination of the Transitional Rate Period for DEV by three years, to December 31, 2016. The termination of the Transitional Rate Period for APCo remains December 31, 2017.

According to the bill, DEV's first review after its Transitional Rate Period will be held in 2021, which is one year earlier than previously scheduled, and will utilize the four 12-month test periods beginning January 1, 2017, and ending December 31, 2020.

APCo's first review after its Transitional Rate Period will be held in 2020, which is unchanged, and will utilize the three 12-month test periods beginning January 1, 2017, and ending December 31, 2019.

The measure also establishes the following:

- Requires the State Corporation Commission (SCC) to enter its final order on petitions for approval of a voluntary rate or rate design test or experiment by the earlier of not more than six months after the filing of the petition or three months after the hearing on the petition;
- Excludes from the definition of "public utility" for purposes of the Utility Facility Act a company that provides storage of electric energy that is not for sale to the public, if the company is not organized as a public utility;
- Authorizes an investor-owned electric utility, if a cable operator does not elect to relocate facilities underground when the electric utility relocates its facilities underground, to either convey poles to the cable operator or retain ownership of the poles;

- Provides that an energy efficiency program proposed by an electric or natural gas utility is in the public interest if the net present value of the benefits exceeds the net present value of the costs as determined by any three of four benefit cost tests;
- Exempts large general service customers from being charged any costs of new energy efficiency programs;
- Establishes a new rate adjustment clause category for expenses of electric distribution grid transformation projects, which include advanced metering infrastructure, intelligent grid devices, automated control systems for electric distribution circuits and substations, communications networks for service meters, certain distribution system hardening projects, physical security measures at key distribution substations, cyber security measures, certain energy storage systems and microgrids, electrical facilities and infrastructure for electric vehicle charging systems, LED street light conversions, and new customer information platforms;
- Declares that electric distribution grid transformation projects are in the public interest;
- Provides that the costs of such projects may be recovered either through a rate adjustment clause or through a customer credit reinvestment offset;
- Directs the SCC to approve, without consideration of their reasonableness or prudence, the costs of the conversion of an investor-owned electric utility's existing overhead distribution tap lines with new underground facilities if the average cost per customer does not exceed \$20,000 and the costs per mile do not exceed \$750,000, provided that as of December 31, 2028, any costs recovered by a utility for such purpose is limited to the remaining costs for conversions previously approved or for which approval is pending;
- Requires the SCC to enter an order on a petition for approval of an electric distribution grid transformation project within six months after the petition's filing;
- Increases the amount of capacity of solar and wind generation facilities constructed by a utility that are in the public interest from 50 megawatts (MW) to 5,000 MW, including rooftop solar installations with a capacity of not less than 50 kilowatts;
- Declares that offshore wind generation facilities with a capacity of not more than 16 MW and all onshore wind generation facilities are in the public interest and that the costs thereof may be recovered either through a rate adjustment clause or through a customer credit reinvestment offset;
- Provides that if DEV has not commenced construction of an offshore wind generation facility by July 1, 2023, the SCC may cease its rate adjustment clause and roll the costs into its rate base without increasing base rates;
- Requires certain costs related to generation plant facilities fueled by coal, natural gas, or oil or for automated meter reading electric distribution service meters and costs associated with projects necessary to comply with state or federal environmental laws, regulations, or judicial or administrative orders relating to coal combustion by-product management that the utility does not petition to recover through a rate adjustment clause to be deemed to have been recovered through customer rates during the test period under review unless doing so would place the utility in an under-earning position, in which event the SCC is required to authorize deferred recovery of such costs and allow the utility to amortize and recover the deferred costs over future periods;

- Bars the SCC, in the first triennial review proceeding conducted after January 1, 2021, from ordering a rate increase for DEV and from ordering a rate decrease of more than \$50 million;
- Allows utilities, upon request, to reduce or eliminate amounts of overearnings that otherwise would be required to be credited to customers by applying a customer credit reinvestment offset for expenses on new solar and wind generation facilities and electric distribution grid transformation projects, if the utility has invested in such projects an amount not less than 100 percent of the amount of its overearnings;
- Provides that the portion of the costs associated with new utility-owned solar or wind generation facilities or with electric distribution grid transformation projects that are the subject of a customer credit reinvestment offset must not be thereafter recoverable through the utility's base rates or a rate adjustment clause;
- Requires APCo to continue funding its pilot program for energy assistance and weatherization for low-income, elderly, and disabled individuals at no less than the existing levels, and requires DEV to fund its similar pilot program at no less than \$13 million annually;
- Directs the SCC to find that prior to January 1, 2024, the construction or purchase by a public utility of certain solar or wind generation facilities, or the purchase by a public utility of energy, capacity, and environmental attributes from such solar facilities, is in the public interest and requires 25 percent of the generation capacity from such facilities to be from the purchase by a public utility of energy, capacity, and environmental attributes from solar facilities owned by persons other than a public utility;
- Requires all of such solar generation capacity located in the Commonwealth to be subject to competitive procurement but allows a public utility to select solar generation capacity without regard to whether such selection satisfies price criteria if the selection of the solar generating capacity materially advances non-price criteria if such non-price solar generating capacity selected does not exceed 25 percent of the utility's solar generating capacity;
- Authorizes a utility to petition the SCC for a prudency determination for a solar or wind project;
- Requires electric utilities to file updates to its integrated resource plan (IRP) in each year immediately preceding the year the utility is subject to a triennial review filing rather than annually; and
- Requires each electric utility's IRP to evaluate long-term electric distribution grid planning and proposed electric distribution grid transformation projects and developing a long-term plan for energy efficiency measures to accomplish policy goals of reduction in customer bills, reduction in emissions, and reduction in carbon intensity.

The provision creating the customer credit reinvestment offset expires on July 1, 2028, according to the legislation. The measure also includes enactment clauses that:

- Establish a pilot program consisting of the approval of the underground construction of two electrical transmission lines and direct the SCC to approve as a qualifying project a transmission line that appears to track the I-66 Hybrid Route that has been considered in the application of DEV for the Haymarket transmission line project in Prince William County and approve a rate adjustment clause to allow the utility to recover from the utility's Virginia jurisdictional customers the costs of the project;

- Bar APCo from recovering \$10 million of incurred fuel costs;
- Require DEV to provide current customers voluntary bill credits of \$133 million in 2018 and \$67 million in 2019;
- Require reductions in the rates for incumbent electric utilities to reflect reductions in federal tax liability resulting from the enactment of federal tax legislation, including reductions in 2018 of \$50 million by APCo and \$125 million by DEV;
- Direct the SCC to conduct pilot programs for the deployment of electric power storage batteries with capacity limits of up to 10 MW for APCo and 30 MW for DEV;
- Allow certain large nonresidential customers that enter into a three-year minimum exclusive supply agreement to receive a Manufacturing and Commercial Competitiveness Retention Credit that reduces their base generation charges by two percent;
- Require DEV to consider in its next IRP whether the construction or purchase of one or more generation facilities with at least one MW of generating capacity that use combined heat and power or waste heat to power are in the customers' interest;
- Require APCo and DEV to investigate the feasibility of providing broadband Internet services to unserved areas of the Commonwealth using utility distribution and transmission infrastructure;
- Require the SCC to submit annual reports that assess, among other things, new construction and development of new utility-owned and utility-operated generating facilities utilizing energy derived from sunlight;
- Require APCo and DEV to develop programs of energy conservation measures, with APCo's program costing not less than \$140 million and DEV's program costing not less than \$870 million;
- Require APCo and DEV to each investigate and report upon its economic development activities and assistance provided to Virginia localities in the area of economic development in each utility's respective service area;
- Require APCo and DEV to investigate potential improvements to net energy metering programs;
- Require DEV's IRPs to incorporate policy goals of reduction in customer bills, reduction in emissions, and reduction in the utility's carbon intensity;
- Require the SCC to submit annual reports assessing the reliability of electrical transmission or distribution systems, the integration of utility-owned or customer-owned renewable electric generation resources with the utility's electric distribution grid, the level of investment in generation, transmission, or distribution of electricity, and related matters;
- Provide that the provisions of this measure apply retroactively to applications regarding new underground facilities or offshore wind facilities pending with the SCC on or after January 1, 2018;
- Require APCo, subject to SCC approval, by July 1, 2018, to construct or acquire solar generation facilities in Virginia with an aggregate capacity of not less than 200 MW;
- Provide that no more than one half of the combined capital investment amount attributable to investments in new utility-owned solar or wind generation facilities, electric distribution grid

transformation projects, undergrounding distribution facilities, undergrounding two transmission lines, and energy efficiency programs must be investments in undergrounding distribution facilities, undergrounding two transmission lines, and electric grid distribution transformation projects solely designed for physical security at distribution substations; and

- Require the SCC to submit reports after each triennial review proceeding that describe and quantify investments in solar and wind projects and in electric distribution grid transformation projects.

Environmental Legislation

Coastal Zone Management

HB 1035 - Virginia Water Supply Revolving Fund Modifications

Sponsored by Del. Hodges

Directs the Board of Health, when making loans, loan subsidies, or grants for regional water projects in the Eastern Virginia Groundwater Management Area, to give preference to projects that do not involve the withdrawal of groundwater from the coastal plain aquifer.

Environmental Health Services

HB 1206 - Notifications for the Virginia Pollutant Discharge Elimination System

Sponsored by Del. Cline

Authorizes the newspaper publication, if the permit applicant so elects, of an abbreviated public notice of certain Virginia Pollutant Discharge Elimination System permits, each with a link to the full public notice on the website of the Department of Environmental Quality.

Prior law required the publication of such notice in a newspaper once a week for two successive weeks.

HB 1382 - Tax Credit for Agricultural Best Management Practices

Sponsored by Del. Byron

Allows taxpayers to apply for a refund of corporate income tax credits received for expenditures for agricultural best management practices.

Inland Water Resource Management and Conservation

HB 346 - Operation of Personal Watercraft on Public Lake Smaller Than 50 Acres

Sponsored by Del. Stolle

Provides that any locality in Planning District 23 may, by ordinance, prohibit the operation of a personal watercraft on a public lake measuring less than 50 acres in extent.

A violation of the prohibition constitutes a Class 4 misdemeanor, according to the bill.

HB 635 – Free Fishing Day Requirements

Sponsored by Del. O’Quinn

Permits the Board of Game and Inland Fisheries to designate a substitute free day in the event that a free day is canceled as a result of inclement weather. The bill contains an emergency clause.

HB 751/SB 984 – Motorboat Propulsion Requirements

Sponsored by Del. Leftwich; Sen. Cosgrove

Allows a motorboat that is propelled by a means that is below the water line and forward of either the transom or an integrated swim platform to be accompanied by a person in the water.

HB 866 – Consolidating Provisions of the Scenic Rivers Act

Sponsored by Del. Orrock

Consolidates provisions of the Scenic Rivers Act relating to prohibitions on the construction of dams and limits on the effects of the act.

Specifically, the bill states that no new dam or other structure or enlargement of an existing dam or other structure that impedes the natural flow of Goose Creek may be constructed, operated, or maintained within the section of Goose Creek designated as a scenic river unless specifically authorized by an act of the General Assembly.

Land Management and Conservation

SB 698 – Erosion and Sediment Control and Inspections of Natural Gas Pipelines

Sponsored by Del. Deeds

Amends current law relating to erosion and sediment control.

This bill authorizes the Department of Environmental Quality to conduct inspections of the land-disturbing activities of interstate and intrastate natural gas pipeline companies that have approved annual standards and specifications as such land-disturbing activities relate to construction of any natural gas transmission pipeline greater than 36 inches inside diameter to determine the following:

- Compliance with such annual standards and specifications,
- Compliance with any site-specific plans; and
- If there have been or are likely to be adverse impacts to water quality as a result of such land-disturbing activities.

Further, the statute authorizes the department to issue a stop work instruction on the relevant part of the site when the department determines that there has been a substantial adverse impact to water quality or that a substantial and imminent adverse impact to water quality is likely to occur as a result of such land-disturbing activities.

The law also requires that upon written documentation of completion by the company and approval by the department in writing of the corrective measures specified in the stop work instruction, the instruction must be immediately lifted. Such stop work instruction may be appealed to the circuit court of the jurisdiction where the violation was alleged to have occurred or other appropriate court, according to the bill.

Water Quality and Pollution Control

HB 22 - Mandatory Water and Sewer Connections

Sponsored by Del. Ware

Adds Powhatan County and Smyth County to the list of counties that may require connection to their water and sewer systems by owners of property that can be served by the systems if the property, at the time of installation of such public system, or at a future time, does not have a then existing, correctable, or replaceable domestic supply or source of potable water and a then existing, correctable, or replaceable system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious, and dangerous diseases.

Further, Smyth County is also added by the bill to those counties with authority to assume the obligations of a public service authority under the same terms and conditions as applicable to the public service authority.

HB 192 - Rainwater and Gray Water Regulations

Sponsored by Del. Yancey

Directs the State Board of Health to adopt regulations regarding the use of gray water and rainwater.

The regulations must provide standards for the use of rainwater harvesting systems, which includes systems that collect rainwater for use by commercial enterprises but do not provide water for human consumption.

According to the bill, the regulations may not apply to water that is not for human consumption, including gray water and rainwater, that is used by certain specified facilities.

The measure also directs the board to consider recognizing rainwater as an independent source of fresh water.

HB 211 - Ground Water Withdrawal Permit Term and Fee

Sponsored by Del. Wright, Jr.

Lengthens from 10 years to 15 years the maximum term of a ground water withdrawal permit issued by the State Water Control Board.

The act also lengthens from 10 years to 15 years the maximum term of a ground water withdrawal special exception and directs the board to raise the applicable permit fee from \$6,000 to \$9,000.

HB 358 - Groundwater Management in Subdivisions

Sponsored by Del. Bulova

Requires the developer of a subdivision located in a designated groundwater management area for which the developer obtains plat approval on or after July 1, 2018, to apply for a technical evaluation from the Department of Environmental Quality prior to final subdivision plat approval if there will be 30 or more lots within the subdivision served by private wells.

HB 377 - Virginia Water Protection Permit Exceptions

Sponsored by Del. Bulova

Exempts from the requirement to obtain a Virginia Water Protection Permit any impact to a stormwater management facility on dry land.

The bill directs the Department of Environmental Quality to adopt guidance ensuring that any project claiming this exemption creates no more than minimal ecological impact.

HB 925 – Industrial and High-Risk Programs for Storm Sewer Systems

Sponsored by Del. Bulova

Authorizes any locality that owns or operates a permitted municipal separate storm sewer system (MS4) to adopt and administer an industrial and high-risk runoff program.

The statute authorizes any such locality to include in its industrial and high-risk program an industrial or commercial facility notwithstanding the fact that the facility is also subject to certain permits or the federal Emergency Planning and Community Right-to-Know Act.

The law limits the ability of the State Water Control Board, unless it is required to do so by federal law, to impose certain regulatory conditions on any locality that administers such a program and prohibits the board from modifying existing MS4 permits to avoid such limitation. The bill authorizes the board to require a locality to report an industrial or commercial facility if it becomes aware of a violation of an industrial stormwater management requirement.

HB 1036 – Eastern Virginia Groundwater Management

Sponsored by Del. Hodges

Directs the Department of Environmental Quality to convene a work group to accomplish the following:

- Assist the department in carrying out the 2017 recommendation of the Eastern Virginia Groundwater Management Advisory Committee that an aquifer storage and recovery banking system be developed; and
- Study and identify the components of a groundwater trading program.

The work group must report its recommendations no later than July 1, 2020.

HB 1241 – Regulating Discharge of Car-washing Fundraisers

Sponsored by Del. Hugo

Prohibits any locality from banning car-washing fundraisers that use biodegradable, phosphate-free, water-based cleaners.

Further, the bill provides that no permit issued pursuant to the State Water Control Law may prohibit the discharge of such noncommercial fundraising activity washwaters from a municipal separate storm sewer system.

HB 1307 – Stormwater Management Modifications

Sponsored by Del. Hodges

Allows any rural Tidewater locality to comply with water quantity technical criteria for certain land-disturbing activities based on the percentage of impervious cover in the watershed.

The measure provides that any eligible locality electing to use certain control standards must adopt an official map that indicates the percentage of impervious cover in each watershed within the locality and must update the map at least annually.

The legislation also allows any such locality to apply one of the following three standards for managing water quantity to any new development project:

- If the site, as indicated on the map, has less than five percent impervious cover, the standard must be a particular State Water Control Board regulation;
- If the watershed has five percent or more but less than 7.5 percent impervious cover, the standard must be the one-year, 24-hour release method; and
- If the watershed has 7.5 percent or more impervious cover, the standard must be the energy balance method.

The bill further provides that any project whose construction would cause the watershed in which it is located to step up to the next higher tier must be evaluated under the energy balance method or a more stringent alternative.

The act also directs the Department of Environmental Quality to use an appropriate new or existing Regulatory Advisory Panel to assist in clarifying the interpretation and application of the MS-19 standard, which states that properties and waterways downstream from development sites must be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration.

HB 1308 – Local Review Plans for Stormwater Management *Sponsored by Del. Hodges*

Authorizes any rural Tidewater locality, whether or not it has opted out of administering a stormwater or erosion and sediment control program, to require that a licensed professional retained by the applicant submit a set of plans and supporting calculations for land-disturbing activities that disturb 2,500 square feet or more but less than one acre of land.

The measure requires the plans to bear a certification and to be signed and sealed by the professional. The locality is authorized to accept such plans in satisfaction of the local plan review requirement.

Finally, the bill also directs the Department of Environmental Quality to examine the possibility of expanding the use of the agreement in lieu of a stormwater management plan, previously authorized for use in the construction of certain single-family residences, to include any nonresidential development site of less than one acre in a rural Tidewater locality.

HB 1475/SB 344 – Adopting Federal Criteria for Sewerage Systems *Sponsored by Del. Poindexter; Sen. Peake*

Prohibits the State Water Control Board from adopting certain U.S. Environmental Protection Agency (EPA) freshwater ammonia water quality criteria unless the board includes in such adoption a phased implementation program consistent with the federal Clean Water Act with certain funding and timing considerations.

The bill also directs the Department of Environmental Quality to:

- Identify any other states that have adopted the criteria as of July 1, 2018;

- Identify those procedures for the implementation of the criteria that will minimize the impact of such implementation on Virginia sewerage systems while complying with the Clean Water Act; and
- Report its findings to the Chairmen of the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Agriculture, Chesapeake and Natural Resources, the Senate Finance Committee, and the House Appropriations Committee by November 1, 2018.

The act provides that the inclusion of the implementation program in the board's current regulatory action must not require re-proposal of the current action.

HB 1608/SB340 - Issuing Virginia Water Quality Improvement Fund Grants
Sponsored by Del. Poindexter; Sens. Peake and Reeves

Authorizes the director of the Department of Environmental Quality to issue grants from the Virginia Water Quality Improvement Fund for water quality improvements, including cost-effective technologies to reduce loads of total phosphorus, total nitrogen, or nitrogen-containing ammonia, in order to meet certain requirements of ammonia-related regulations that are more stringent than those adopted by the State Water Control Board.

The law also requires the department to prepare a preliminary estimate of the amount and timing of Water Quality Improvement Grants required to fund projects to reduce loads of nitrogen-containing ammonia at certain levels based on an estimate of the anticipated range of costs for all publicly owned treatment works if the board were to adopt the 2013 Aquatic Life Ambient Water Quality Criteria for Ammonia published by the U.S. Environmental Protection Agency.

SB 211 - Comprehensive Plans for Groundwater and Surface Water
Sponsored by Del. Stuart

Authorizes a locality to show in the locality's comprehensive plan the locality's long-range recommendations for groundwater and surface water availability, quality, and sustainability.

The statute further requires the local planning commission to survey and study groundwater and surface water availability, quality, and sustainability in the preparation of a comprehensive plan.

SB 699 - Stormwater Management and Inspections of Natural Gas Pipelines
Sponsored by Del. Deeds

Amends current law relating to stormwater management in an identical way to SB 698.



WEST VIRGINIA

“ West Virginia adopted 24 energy and environmental bills during the 2018 legislative session. Notably, SB 10 excludes the setting and adjustment of rates, fees, and charges of municipal power systems from the jurisdiction of the Public Service Commission and establishes a right of appeal against rate increases by customers. Further, the bill also provides that public service districts may accept payments for all fees and charges due by credit or check card. The legislature also passed SB 290 establishing that the Department of Environmental Protection secretary may issue water pollution control permits that contain water quality-based effluent limits that are adjusted to reflect credit for pollutants in the permittee’s intake water. ”

Energy Legislation

Alternative Energy Development

HR 7 – Endorsing Appalachian Storage Hub Development

Sponsored by Del. Kelly

Urges federal policymakers to support the identified legislation and other bills, resolutions, or policies advancing the development of an Appalachian Storage Hub.

Coal and Minerals

HB 4626 - Relating to the West Virginia Innovative Mine Safety Technology Tax Credit Act

Sponsored by Del. Anderson

Requires that proximity detection systems, cameras, and underground safety shelters and the refurbishing thereof be on the list of approved innovative mine safety technology.

The bill further establishes an exception to the intent of the legislature as to the description of what should be on the list, and it extends the tax credit authorized for qualified investment in eligible safety property.

HCR 8 - Funding Coal-to-Chemicals Project Feasibility Study

Sponsored by Del. Phillips

Asks the United States Department of Energy and the United States Department of Commerce to make available funding for a feasibility study to analyze a coal-to-chemicals project for West Virginia and the Appalachian region.

SB 230 – Authorizing Department of Commerce to Promulgate Legislative Rules

Sponsored by Sen. Maynard

Authorizes the Office of Miners’ Health, Safety and Training to promulgate a legislative rule relating to operating diesel equipment in underground mines in West Virginia.

The bill also repeals the Division of Energy’s legislative rule relating to community development assessment and real property valuation procedures for the Office of Coalfield Community Development.

SB 525 – Emergency Medical Training Certifications for Mining

Sponsored by Sen. Gaunch

Repeals former requirements for emergency medical training for technicians in mining and replaces it with the following requirements for applicants:

- Must be at least 18 years old;
- Apply on a form prescribed by the Director of Miners’ Health, Safety and Training;
- Pay the application fee;

- Possess a valid cardiopulmonary resuscitation certification;
- Successfully complete an Emergency Medical Technician - Mining Education Program authorized by the Director of Miners' Health, Safety and Training in consultation with the Board of Coal Mine Health and Safety; and
- Successfully complete Emergency Medical Technician - Mining Cognitive and Skills Examinations authorized by the Director of Miners' Health, Safety and Training in consultation with the Board of Coal Mine Health and Safety.

Further, the measure eliminates the authority of the Director of Miners' Health Safety and Training to authorize providers to administer certification courses and examinations and modifies requirements for training personnel and independent trainers.

SB 626 – Relating Generally to Coal Mining

Sponsored by Sen. Smith

Establishes new notice requirements regarding permit applications under the Surface Coal Mining and Reclamation Act.

The bill clarifies when a certification is granted under the Water Pollution Control Act and when a comprehensive mine safety program is subject to annual review.

Further, the legislation establishes the use of Mine Safety and Health Administration (MSHA) -approved ground control plans for surface operations, and requires automated external defibrillators be present on surface operations.

The director of the Office of Miners' Health, Safety, and Training is required by the bill to promulgate emergency rules.

The law provides that one MSHA-approved plan may be submitted to the director in lieu of separate state-approved plans for ventilation, seals, roof control, belt air, self-contained self-rescuer storage, tracking and communication, and emergency shelters and requires that the MSHA-approved comprehensive safety plan be forwarded to the director in a timely manner.

Finally, the bill permits the use of diesel-powered generators in underground mines under certain conditions.

Natural Gas and Petroleum

HB 4268 - Cotenancy Modernization and Majority Protection Act

Sponsored by Del. Anderson

Provides an exception to waste and trespass for certain oil and natural gas use and development to encourage the efficient economic development of oil and natural gas resources.

The measure establishes that use and development of oil and gas mineral property that has been consented to by three fourths of the oil and gas owners is permissible, is not waste, and is not a trespass.

Further, the bill provides that cotenants and operators are not liable for damages for the development and use of the property if they pay nonconsenting cotenants in accordance with either of two defined options and report and reserve interests for unknown or unlocatable tenants.

The legislation authorizes a method to determine certain leasehold and contractual terms, including review and determination by the Oil and Gas Conservation Commission in limited circumstances, and it provides for the creation of a fund to accept deposits of reserved interests for unknown or unlocatable cotenants that is administered by the State Treasurer as provided and in conjunction with the Uniform Unclaimed Property Act.

The act provides that after a specified time the administrator may transfer the unclaimed funds to the Oil and Gas Reclamation Fund for the plugging of oil and gas wells and establishes penalties for noncompliance as part of the Uniform Unclaimed Property Act and provides for rule making authority by the State Treasurer regarding the created fund and by the Oil and Gas Conservation Commission.

Certain protections are provided by the bill for surface owners where oil and natural gas are owned by a nonconsenting cotenant and provides liability protection for nonconsenting cotenants with respect to development of oil and natural gas.

Finally, the bill provides that its provisions are severable.

HB 4270 - Timely Payment of Moneys Owed from Oil and Natural Gas Production *Sponsored by Del. Deem*

Establishes for timely payment of moneys owed from oil and natural gas production and interest penalties for certain late payments.

The measure also requires specified information be remitted with such payments alongside quarterly reporting of production data to the Department of Environmental Protection (DEP) for horizontal wells. Finally, the bill provides for a rule-making authority of the DEP secretary.

SB 360 - Clarifying Oil and Gas Permitting Rules *Sponsored by Sen. Clements*

Modifies the permit issuance prohibition from one-eighth interest of the total amount paid to or received at the well head for oil and gas extracted to not less than one-eighth of the gross proceeds free from any deduction for post-production expenses.

The legislation also establishes that a permit applicant may file with its application an affidavit that certifies that the affiant is authorized by the owner of the working interest in the well to tender to the owner of the oil or gas a certain royalty of the gross proceeds, free from certain deductions, received at the first point of sale to an unaffiliated third-party purchaser in an arm's length transaction.

Utilities

SB 10 – Modifying Public Service Commission Jurisdiction

Sponsored by Sen. Sypolt

Excludes the setting and adjustment of rates, fees, and charges of municipal power systems from the jurisdiction of the Public Service Commission and establishes a right of appeal against rate increases by customers.

Further, the bill also provides that public service districts may accept payments for all fees and charges due by credit or check card and presents procedures and guidance for utilization of this method of payment.

Finally, the legislation clarifies the commission’s jurisdiction over Internet protocol-enabled service, voice-over Internet protocol-enabled service, stormwater services by a public service district, political subdivisions providing separate or combined water and/or sewer services, and certain telephone company transactions.

Environmental Legislation

Emergency Management and Homeland Security

HB 4162 - Relating to the Duties and Powers of the State Conservation Committee

Sponsored by Del. Hanshaw

Grants the State Conservation Committee the authority to enter into contracts for flood response, recovery, and streambank restoration work and to maximize federal dollars by collaborating with federal agencies responding to flood events.

HB 4607 – Drone Regulation at State Parks

Sponsored by Del. Hamrick

Prohibits the banning of the use of recreational drones at state parks except within 150 feet from lodging.

SB 282 - Exempting State Conservation Committee from Certain Purchasing Division Requirements

Sponsored by Sen. Gaunch

Exempts the State Conservation Committee and the Conservation Agency from the Purchasing Division requirements for contracts related to natural disaster and flood recovery activities and joint funding agreements with the United States Geological Survey.

Environmental Health Services

HB 2693 – Wildlife Definitions

Sponsored by Del. Hamilton

Declares ownership of and title to all wildlife in the State of West Virginia to the state as the trustee for the people.

The bill outlaws hunting for wildlife in any manner, or at any time, unless the person taking or hunting the wildlife consents that the title to the wildlife is and remains in the State of West Virginia for the purpose of regulating the taking, hunting, using, and disposing of the wildlife.

The taking or hunting of wildlife at any time or in any manner by any person is considered consent provided that all fish, frogs, and other aquatic life in privately-owned ponds are, and remain, the private property of the owner or owners of the privately-owned ponds and that the fish, frogs, and other aquatic life in the privately-owned ponds may be caught, taken, or killed by the owner or owners at any time, according to the measure.

HB 2696 - Crossbow Hunting Provisions

Sponsored by Del. Hamilton

Clarifies that the use of crossbows with a Class A hunting and trapping license during big game seasons requires additional licenses, stamps, or permits (with exception of buck firearms seasons).

The bill also permits crossbow hunting with Class RB and Class RRB licenses; Class UU licenses; and a Class BG stamp.

HB 4180 - Establishing Procedures for Limited Permit Hunts

Sponsored by Del. Hamilton

Authorizes the director of the Division of Natural Resources to establish procedures and a fee schedule for individuals applying for limited permit hunts.

HB 4214 - Increasing Penalties for Unlawfully Possessing or Digging Ginseng

Sponsored by Del. Eldridge

Increases penalties for unlawfully possessing or digging ginseng to not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$2,000 or confinement in jail not more than six months, or both fined and confined, for subsequent offenses.

The bill further requires ginseng dealers to maintain a photocopy of a valid identification card of all diggers, growers, and dealers involved in a ginseng transaction. It also requires written consent by the landowner to enter the lands of another to dig or prospect for ginseng.

SB 346 - Non-resident Student Lifetime Hunting Licenses

Sponsored by Sen. Maynard

Permits full-time, nonresident students attending an in-state college or university to purchase lifetime resident statewide hunting, trapping, trout fishing, and fishing licenses.

SB 446 - Agritourism Responsibility Act

Sponsored by Sen. Rucker

Creates the Agritourism Responsibility Act in order to making findings and establishes the authority and duties of the Commissioner of Agriculture related to agritourism business.

The bill authorizes the Commissioner of Agriculture, in consultation with the Secretary of Commerce, to promulgate and propose rules and establish duties of agritourism businesses and participants in agritourism activities.

Further, the law grants immunity to agritourism business, employees, and volunteers associated therewith from certain acts of simple negligence and creating exceptions.

The statute requires notice of certain rights, limitations on liability, and responsibilities of participants in agritourism activities and clarifies that operation of agritourism business does not change status of the facilities and property used for building code and tax purposes.

Finally, the legislation exempts structures of agritourism business occasionally used for events from building code requirements for entities engaged in such activities on a full-time basis.

SB 451 - Permitting Sunday Hunting on Public Lands

Sponsored by Sen. Maynard

Permits Sunday hunting on public lands, while also providing that misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass.

The act also authorizes the use of certain technologies for hunting coyote, fox, raccoon, opossum, and skunk, and it prohibits the use of a drone or unmanned aircraft to wound, harass, or transport wildlife.

Further, the bill creates a misdemeanor and provides penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters.

The measure also requires crossbows and bows be cased when in a motor vehicle during certain times and prohibits nocked bows from being transported in a motor vehicle.

Finally, the bill allows for “noodling,” or fishing for catfish using one’s bare hands.

Hazardous Waste and Substance Management

SB 163 - Department of Environmental Protection Rule for Hazardous Waste Management Systems

Sponsored by Sen. Maynard

Authorizes the Department of Environmental Protection to promulgate certain legislative rules as filed, modified, and amended and to repeal certain legislative and procedural rules.

Specifically, the bill authorizes the Department of Environmental Protection to promulgate a legislative rule relating to hazardous waste management system; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the following:

- Underground storage tanks;
- Surface mining reclamation;

- Standards of performance for new stationary sources;
- Control of air pollution from combustion of solid waste;
- Control of air pollution from municipal solid waste landfills;
- Ambient air quality standards;
- Control of air pollution from hazardous waste treatment, storage, and disposal facilities;
- Hazardous air pollutants;
- Voluntary remediation and redevelopment; and
- State construction grants program rule.

Finally, the measure directs the Department of Environmental Protection to repeal a procedural rule relating to Freedom of Information Act requests.

Inland Water Resource Management and Conservation

SB 347 - Relating to the Operation of Motorboats

Sponsored by Sen. Maynard

Defines the term “state of principal operation” as the state in whose waters a vessel is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year.

The bill also establishes a fee schedule for motorboat registration, and it provides for motorboat numbering, lighting, fire extinguishers, engine bilges, and flotation device requirements.

Further, the statute increases the financial amount of property damage before certain accidents need to be reported to an excess of \$2,000.

Finally, the legislation clarifies the requirements for the operation of personal watercrafts and limits the hours during the day water skiing and surfboarding are permitted to daylight hours only.

Land Management and Conservation

SB 230 - Authorizing Department of Commerce to Promulgate Legislative Rules

Sponsored by Sen. Maynard

Modifies Department of Natural Resources rule relating to controlling a public land corporation’s sale, lease, exchange, or transfer of land or minerals, among other rules.

Further, the bill authorizes the Division of Natural Resources to promulgate a legislative rule relating to the following:

- Hunting, fishing, and other outfitters and guides;
- General hunting;

- Special migratory game bird hunting; and
- Miscellaneous permits and licenses.

Water Quality and Pollution Control

SB 290 - Relating to Environmental Protection Standards of Water Quality and Effluent Limitations

Sponsored by Sen. Smith

Establishes that the Department of Environmental Protection secretary may issue water pollution control permits that contain water quality-based effluent limits that are adjusted to reflect credit for pollutants in the permittee's intake water.

The measure also declares that the secretary may not set benchmarks for substances in, or conditions of, discharges of stormwater that are more restrictive than the acute aquatic life water quality criterion, the federal benchmark, the chronic aquatic life water quality criterion, or the ambient aquatic life advisory concentration.

The secretary must also establish effluent limits for stormwater that are developed in accordance with mixing zones that are appropriate for relevant conditions, upon request by a permit applicant. The secretary must promptly develop guidance for determining how benchmarks in permits demonstrate the adequacy of stormwater best management practices.

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