



Transcending Boundaries

2019

Legislative Digest

**A Guide to State Energy and Environment
Legislation in the South**

September 2019

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

Introduction by
Rep. Lynn Smith of Georgia
Vice Chair

Acknowledgments

The Southern States Energy Board's 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. This version of the Digest is current as of September 1, 2019.

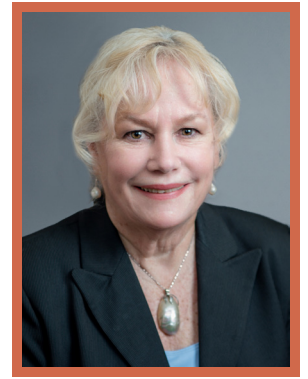
Southern States Energy Board
6325 Amherst Court
Peachtree Corners, Georgia 30092
(770) 242-7712
www.sseb.org
sseb@sseb.org

Contents

Introduction.....	2
Categories.....	4
Matrices and Graphs.....	7
Abbreviations	7
Around the Nation.....	11
Alabama	23
Arkansas.....	27
Florida.....	39
Georgia.....	44
Kentucky	50
Louisiana.....	57
Maryland.....	66
Mississippi	78
Missouri.....	81
North Carolina.....	84
Oklahoma.....	87
Puerto Rico.....	93
South Carolina	100
Tennessee	105
Texas	113
U.S. Virgin Islands.....	138
Virginia.....	139
West Virginia.....	151

Introduction

Representative Lynn Smith



It is my privilege to present the 2019 Legislative Digest, a compendium of energy and environmental legislation enacted by the Board's 18 member states and territories during the 2019 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 1, 2019.

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; Utilities; and this year, we've added a new category: computer technology. Technology, smart devices—sometimes known as the internet of things, artificial intelligence, blockchain ledgers, and cybersecurity are all issues that can and will affect energy issues in the coming years. In total, 220 energy-related bills were passed this year by our member states and territories. A higher than usual number of bills related to utility operations were passed by our member states this year.

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. These categories combined for 254 pieces of legislation. As with previous years, flood control and emergency management planning remain important to many of our member states' legislatures.

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 allowing electric utilities to install broadband services using, in part, their existing infrastructure. Alabama, Georgia, Maryland, Mississippi, North Carolina, Virginia, and West Virginia all passed bills in the interest of streamlining the process for broadband roll-out.

Several states also passed bills related to the fast-growing technology known as the blockchain. Alabama, Arkansas, Florida, Kentucky, and Texas passed bills referencing or related to studying blockchain technology. Kentucky is the only state to have explicitly mentioned its potential use in the energy industry, but multiple sources, including the Massachusetts Institute of Technology, have reported the ability to use the blockchain in efficiently managing certificates that track energy usage.

Two states, Kentucky and West Virginia, both approved resolutions urging President Trump to sign the Appalachian Sky Executive Order to provide "much needed economic opportunity" in areas hit hardest by the coal industry's decline. The Appalachian Sky Initiative could create thousands of aerospace-related jobs for Kentuckians and West Virginians.

Tennessee and Texas both passed new or enhanced criminal penalties related to trespassing on and vandalism of property considered "critical infrastructure," and Louisiana established the crime of "communication interference" for any person interfering with the transmissions of any public utility.

With H 4287 South Carolina established a process for the Public Service Authority Evaluation and Recommendation Committee to receive and consider offers of purchase or other arrangements such as entering into a management agreement for its publicly-owned electric and water utility, Santee Cooper.

Missouri passed new legislation establishing the Pesticide Education Fund in order to fund certification, education, and disposal program, and, similarly, Texas passed an amendment to establish a Pesticide Disposal Fund in order to administer pesticide waste and container collection.

Forest fire mitigation has become a concern for some member states. Oklahoma created legislation to ban brush burning after three consecutive days of 100-degree heat outdoors, while Arkansas created preauthorization rules for the open burning of vegetative storm debris.

Many states passed bills related to emergency mitigation, response, and management including the U.S. Virgin Islands with a bill establishing protocol for evacuating medical patients in an emergency and Texas with a study on the efficacy of unmanned aircraft for disaster response and recovery. Oklahoma passed a bill establishing curriculum requirements for providing training on the emergency management of livestock.

Again this year, Puerto Rico has made great strides in moving past the devastating effects of Hurricane Maria. The legislature there passed two important bills: the Puerto Rico Energy Cooperatives Act and the Puerto Rico Energy Public Policy Act. Together, these bills layout the intent of the legislature to move toward renewable and reliable generation as well as the roadmap to achieve those goals.

There is much more contained within the Digest than can be summarized here. I thank you for taking time to read this publication, and I encourage you to use it in your own state as a tool. 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 Lynn Smith

A recognized leader in the community and the state of Georgia, State Representative Lynn Smith is known for her ability to listen, learn, and lead. Rep. Smith was elected to the Georgia House of Representatives in 1996. She currently serves as chairman for the House Natural Resources and Environment Committee (NR&E). She champions sound environmental policies that protect the environment as well as the economy of Georgia. To that effect, she is the author of several legislative bills that have become law. Most recently, she championed the Water Stewardship Act, the creation of the Regional Water Plans, and revisions to the Brownfield Act. She also serves on the Appropriations, Rules, and Reapportionment Committees. In 2011, along with the UGA Carl Vinson Institute of Government (CVIG), she developed the NR&E Committee Policy Academy to study annually the pressing issues before the committee.

In addition to state committees, Rep. Smith is the current Vice Chair of the Southern States Energy Board (SSEB) and is the immediate past-chair of the Southern Legislative conference (SLC) Energy and Environment Committee. She is also a member of the National Conference of State Legislators (NCSL). She is a former lay appointee to the State Bar of Georgia Investigative Panel and is a former Vice-Chair of the NCSL Environment Committee.

Before being elected to the Georgia House of Representatives, Rep. Smith served her community in several ways. She presided over the following organizations: the Newnan-Coweta Chamber of Commerce, the Newnan Carnegie Library, the Newnan-Coweta Public Library, the Coweta Economic Development partnership, the Shenandoah Georgia Youth Science and Technology Center, the Newnan Junior Service League, and the Driftwood Garden Club. She was a board member of the Newnan - Coweta United Way Board and the Newnan Hospital Board. She continues serving as a member of the Newnan Rotary Club and as a Georgia Master Gardener. A graduate of the University of Georgia, a former educator, business owner, and community leader, Rep. Smith continues to dedicate her time and energies to her community. The Smiths attend Central Baptist Church and support many local philanthropic causes as well as community initiatives. Rep. Smith and her husband Charles also enjoy spending time with their children and grandchildren.

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.

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.

Computer Technology and Digital Innovation

The category of Computer Technology and Digital Innovation is a new addition for the year of 2019. Increasingly, legislatures are passing bills related to digital security, nascent computer technology, and increasingly robust artificial intelligence—all of which can have huge impacts related to grid security, energy efficiency, and solving problems specific to the energy industry.

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

Legislation Prefixes

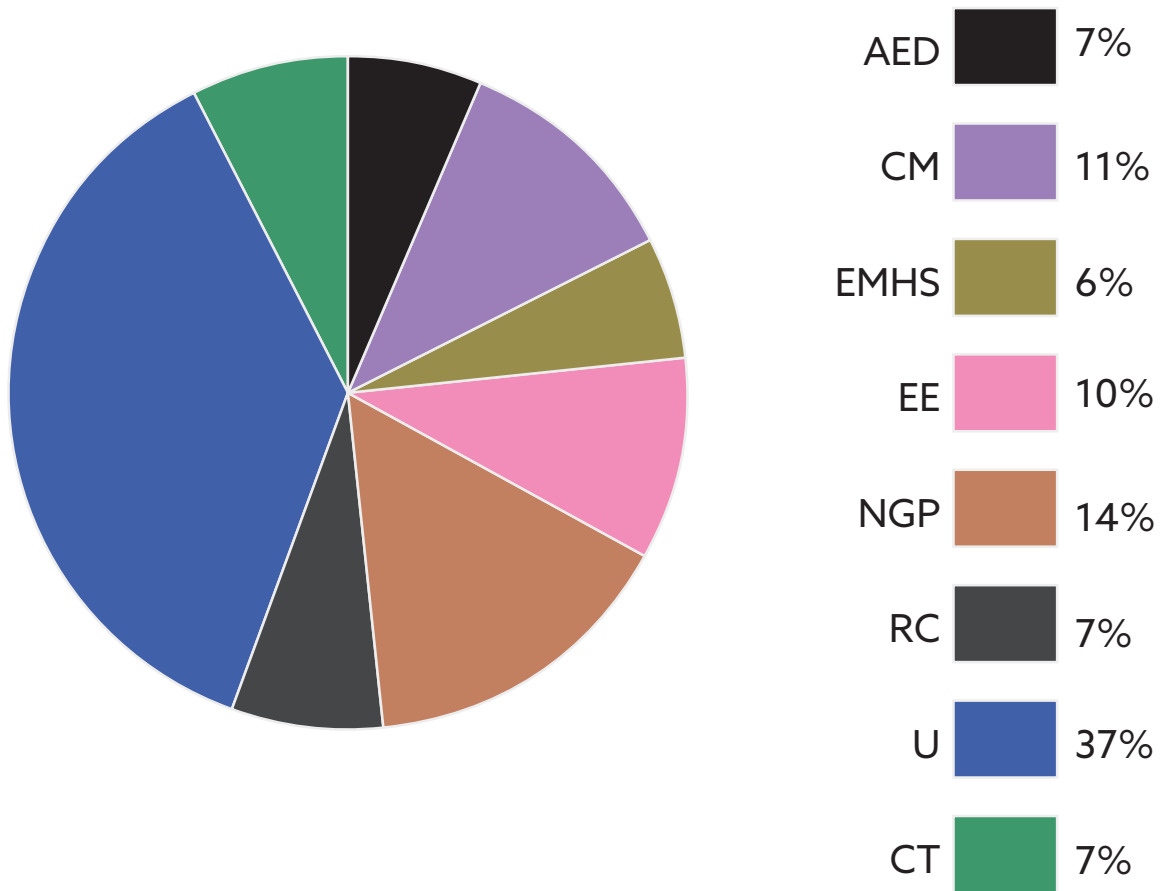
B	Bill
HB	House Bill
HCR	House Concurrent Resolution
HJR	House Joint Resolution
HR	House Resolution
R	Resolution
SB	Senate Bill
SCR	Senate Concurrent Resolution
SJR	Senate Joint Resolution
SR	Senate Resolution

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

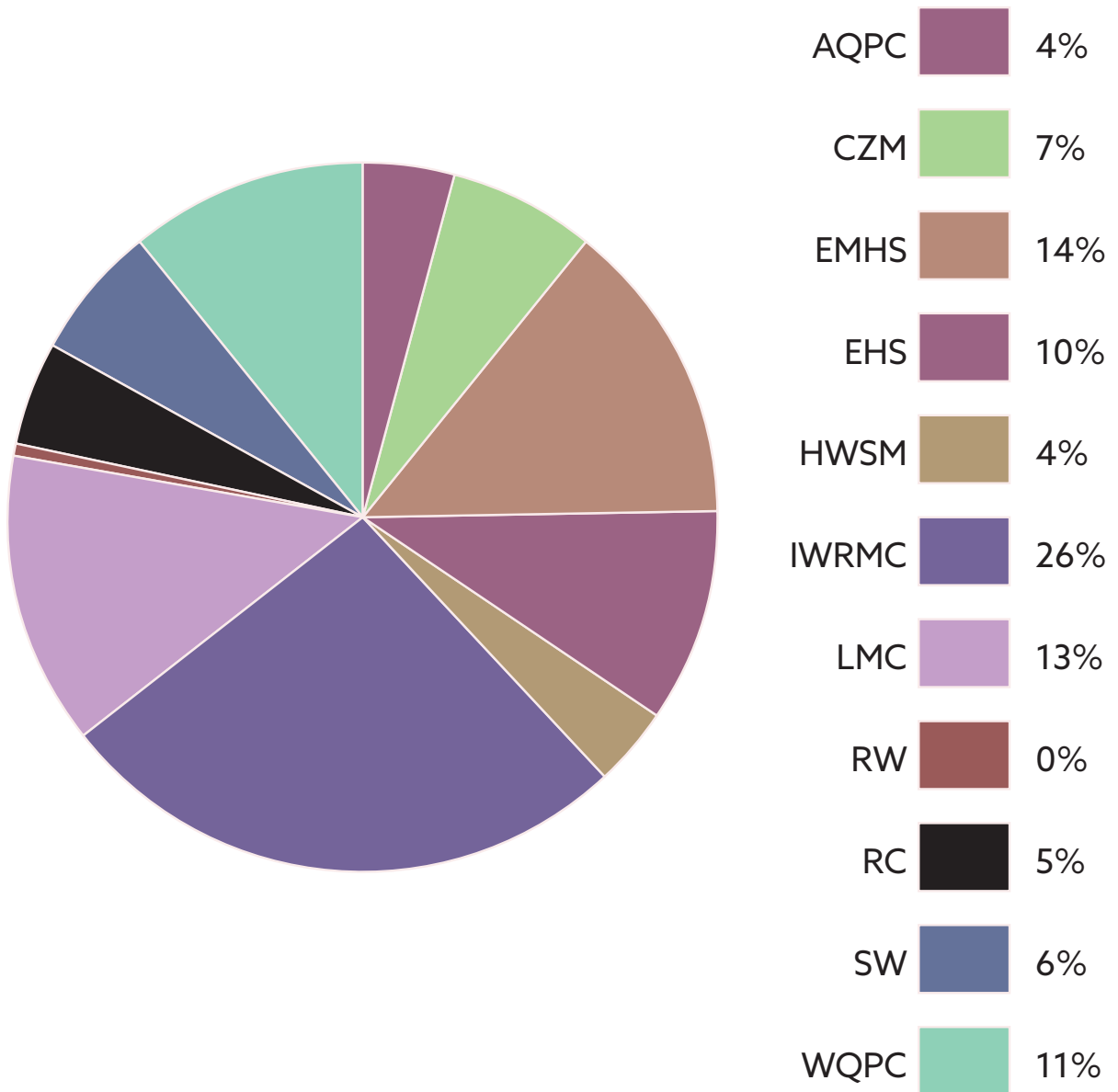
2019 Energy Legislation Matrix

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



2019 Environmental Legislation Matrix

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





AROUND THE NATION

Each year, our organization examines notable bills and trends from around the United States. Sometimes we observe the same regulatory trends as in our member states and other times the legislative landscape can appear quite different. This year, several states passed bills relating to offshore wind development as well as the sequestration of carbon dioxide. Legislation concerning renewables and energy transition plans were also prevalent.

Energy Legislation

Alternative Energy Development

CONNECTICUT

HB 7156 – Authorizes the Procurement of Offshore Wind Energy

Sponsored by House Energy and Technology Committee

Allows the Department of Energy and Environmental Protection (DEEP) commissioner, in consultation with certain other state officials, to solicit proposals from developers of facilities that generate electricity using offshore wind. In developing the solicitations, the commissioner must require any selected proposals to include:

- Contractual commitments to (a) pay at least the prevailing wage to construction workers on the project and (b) engage in good faith negotiations over a project labor agreement (PLA) for the project;
- An explicit description of the best management practices that will be used to avoid, minimize, and mitigate any impacts on wildlife, natural resources, ecosystems, and traditional or existing water-dependent uses; and
- Certain requirements related to protecting fishing vessels and commercial fishing.

If the commissioner determines that a responding proposal meets certain criteria, such as being in ratepayers' best interests and having a positive impact on the state's economic development, the bill allows the commissioner to direct the electric distribution companies (EDCs; i.e., Eversource and United Illuminating) to enter into up to 20-year power purchase agreements (PPAs) to buy energy, capacity, or environmental attributes (e.g., renewable energy certificates) under the proposal.

Under the bill, the commissioner may select proposals that have a total nameplate (i.e., generating) capacity rating of 2,000 megawatts (MW) or less. The bill requires any resulting PPA to be subject to review by the Public Utilities Regulatory Authority (PURA). PURA must approve the PPA if it meets certain criteria specified in the bill, such as meeting a clear public need at a just and reasonable price.

ILLINOIS

SB 1529 – Power Agency Act Amendments

Sponsored by Sen. Harmon

Amends the Illinois Power Agency Act.

In provisions requiring the Illinois Power Agency to solicit 15-year contracts for delivery of renewable energy credits from new utility-scale wind projects, new utility-scale solar projects, and brownfield site photovoltaic projects to

begin delivery on June 1, 2019, if available, but not later than June 1, 2021, specifies that, if the project has delays in the establishment of an operating interconnection with the applicable transmission or distribution system as a result of the actions or inactions of the transmission or distribution provider, or other causes for force majeure as outlined in the procurement contract, delivery must begin no later than June 1, 2022.

MAINE

SB 1494 –Renewable Portfolio Standard Amendments

Sponsored by Sen. Vitelli

Directs the Public Utilities Commission to enter into long term contracts for the procurement of renewable capacity resources and establishes the evaluative criteria the PUC must use when awarding the contracts.

The bill also directs the Governor’s Office of Policy and Management and the Future (OPMF) and the Governor’s Energy Office (GEO) to conduct a market assessment study and an analysis of the opportunities, potential and challenges of meeting the state’s renewable energy goals.

SB 994 – Long-term Offshore Wind Energy Contract Approval Requirements

Sponsored by Sen. Woodsome

Establishes that based on information filed by Maine Aqua Ventus I, GP, LLC, referred to as “Maine Aqua Ventus,” and information otherwise in the public domain regarding the rapid worldwide development of offshore wind energy since 2010 and most recently offshore of the states of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, and Virginia, including hundreds of millions of dollars of planned investment in onshore logistical support and construction, the Public Utilities Commission concluded correctly in its February 19, 2014 order that Maine Aqua Ventus, referred to in the following text as “the supplier,” had satisfied the criteria enacted by the Legislature as follows:

- “Supplier proposes sale of renewable energy produced by a deep-water offshore wind energy pilot project or a tidal energy demonstration project as defined in this RFP”;
- “Supplier has the technical and financial capacity to develop, construct, operate and, to the extent consistent with applicable federal law, decommission and remove the project in the manner provided by Title 38, section 480-HH, subsection 3, paragraph G”;
- “Supplier has quantified the tangible economic benefits of the project to the State, including those regarding goods and services to be purchased and use of local suppliers, contractors and other professionals, during the proposed term of the contract”;
- “Supplier has experience relevant to tidal power or the offshore wind energy industry, as applicable, including, in the case of a deep-water offshore wind energy pilot project proposal, experience relevant to the construction and operation of floating wind turbines, and has the potential to construct a deep-water offshore wind energy project 100 megawatts or greater in capacity in the future to provide electric consumers in Maine with project-generated power at reduced rates”;
- “Supplier has demonstrated a commitment to invest in manufacturing facilities in Maine that are related to deep-water offshore wind energy or tidal energy, as applicable, including, but not limited to, component, turbine, blade, foundation or maintenance facilities”;
- “Supplier has taken advantage of all federal support for the project, including subsidies, tax incentives and grants, and incorporated those resources into its bid price.”

The bill also finds that the development and operation of Maine Aqua Ventus technology under the long-term contract will:

- Meet and surpass the substantial economic and professional opportunities and other societal benefits to the State anticipated by the Legislature in Public Law 2009, chapter 615 and subsequent legislation;
- Provide benefits to providers of supervisory control and data acquisition systems and other monitoring services, systems controls providers, marine and construction engineering firms, marine transport services technology apprenticeship programs and other industries and service providers in the State;
- Promote the public interest in development of reasonably priced, high load factor, winter-peaking renewable energy at projected and stable rates to serve the State and the regional power grid; and
- Achieve several public purposes, including creating offshore-wind-related employment in the State, decreasing reliance on fossil fuels and increasing availability of renewable energy, mitigating the destructive warming of the Gulf of Maine and greatly assisting the State in achieving its carbon reduction goals.

NEW MEXICO

SB 489 – Establishing the Energy Transition Act

Sponsored by Sen. Candelaria

Creates the Energy Transition Act.

The act establishes new renewable and zero carbon emission portfolio standards for both utilities and rural electric cooperatives and authorizes an alternative mechanism for financing the retirement of coal-fired power plants.

The mechanism (referred to as “energy transition bonds” in the bill, commonly known as “securitization”) provides investor-owned utilities with 100 percent recovery of stranded costs at potentially lower cost to customers as compared to conventional financing mechanisms. It has been designed to accommodate the retirement in 2022 of units 1 and 4 of the San Juan Generation Station (SJGS) and to anticipate the closure of the Four Corners Power Plant in 2031. The bill also amends the duties and powers of the Environmental Improvement Board (EIB), requiring the EIB to promulgate a rule limiting carbon dioxide emissions from coal fired generating plants to an emissions standard of 1,100 lbs-CO₂/MWh on or after January 1, 2023.

The bill creates three new funds – managed by the Indian Affairs Department (IAD), Economic Development Department (EDD) and the Department of Workforce Solutions (DWS) and – to be used to assist communities affected by abandoned coal plants and displaced workers. If a utility issues energy transition bonds, the bill requires some of the bond proceeds to be transferred to these funds. The ETA also establishes the Apprenticeship Assistance Act to be administered by the Workforce Solutions Department requiring the employment of apprentices during the construction of electric facilities in increasing percentages over time.

NEW YORK

SB 6599 – Establishing the NY Climate Leadership and Community Protection Act

Sponsored by Sen. Kaminsky

Establishes the New York state climate action council consisting of twenty-two members.

The co-chairpersons of the council must be the commissioner of environmental conservation and the president of the New York state energy research and development authority or their designee.

Each member of the council must be entitled to one vote. The council’s approval and adoption of the final scoping plan pursuant to this act, and any subsequent interim updates thereto, require a supermajority of the council. No action may be taken by the council unless there is a quorum, which must at all times be a majority of the members of the council.

The council must convene advisory panels requiring special expertise and, at a minimum, must establish advisory panels on transportation, energy intensive and trade-exposed industries, land-use and local government, energy efficiency and housing, power generation, and agriculture and forestry. The purpose of the advisory panels must be to provide recommendations to the council on specific topics, in its preparation of the scoping plan, and interim updates to the scoping plan, and in fulfilling the council's ongoing duties.

On or before three years of the effective date of this article, the council must submit the final scoping plan to the governor, the speaker of the assembly and the temporary president of the senate and post such plan on its website. The scoping plan must identify and make recommendations on regulatory measures and other state actions that will ensure the attainment of the statewide greenhouse gas emissions limits established by this article. The measures and actions considered in such scoping plan must at a minimum include:

- Performance-based standards for sources of greenhouse gas emissions, including but not limited to sources in the transportation, building, industrial, commercial, and agricultural sectors;
- Measures to reduce emissions from the electricity sector by displacing fossil-fuel fired electricity with renewable electricity or energy efficiency;
- Land-use and transportation planning measures aimed at reducing greenhouse gas emissions from motor vehicles;
- Measures to achieve long-term carbon sequestration and/or promote best management practices in land use, agriculture and forestry;
- Measures to achieve six gigawatts of distributed solar energy capacity installed in the state by two thousand twenty-five, nine gigawatts of offshore wind capacity installed by two thousand thirty-five, a statewide energy efficiency goal of one hundred eighty-five trillion British thermal units energy reduction from the two thousand twenty-five forecast; and three gigawatts of statewide energy storage capacity by 2030;
- Measures to promote the beneficial electrification of personal and freight transport and other strategies to reduce greenhouse gas emissions from the transportation sector;
- Measures to achieve reductions in energy use in existing residential or commercial buildings, including the beneficial electrification of water and space heating in buildings, establishing appliance efficiency standards, strengthening building energy codes, requiring annual building energy benchmarking, disclosing energy efficiency in home sales, and expanding the ability of state facilities to utilize performance contracting;
- Recommendations to aid in the transition of the state workforce and the rapidly emerging clean energy industry;
- Measures to achieve healthy forests that support clean air and water, biodiversity, and sequester carbon;
- Measures to limit the use of chemicals, substances or products that contribute to global climate change when released to the atmosphere, but are not intended for end-use combustion;
- Mechanisms to limit emission leakage; and
- Verifiable, enforceable, and voluntary emissions reduction measures.

SOUTH DAKOTA

SB 15 – Solar Facility Definitions and Establishing Permitting Provisions

Sponsored by the Commerce and Energy Committee

Defines “solar energy facility” as a new facility, or facility expansion, consisting of a commonly managed integrated system of solar panels, power collection systems, electric interconnection systems, and associated facilities, that converts solar energy into electricity and is designed for or capable of generating one hundred megawatts AC or more of electricity.

A facility expansion includes the addition of new solar panels, designed for or capable of generating twenty-five megawatts AC or more of electricity, that are to be managed in common and integrated with existing solar panels, and the combined megawatt capability of the existing and new solar panels is one hundred megawatts AC or more of electricity.

The Public Utilities Commission must promulgate rules pursuant to this act. Rules may be adopted by the commission:

- To establish the information requirements and procedures that every utility must follow when filing plans with the commission regarding its proposed and existing facilities;
- To establish procedures for utilities to follow when filing an application for a permit to construct a facility, and the information required to be included in the application; and
- To require bonds, guarantees, insurance, or other requirements to provide funding for the decommissioning and removal of a solar or wind energy facility.

UTAH

HB 411 – Establishing the Community Renewable Energy Act

Sponsored by Rep. Handy

Enacts the Community Renewable Energy Act.

The bill outlines the role and rulemaking authority of the Utah Public Service Commission in approving a community renewable energy program under the act, and it clarifies options for customer participation and nonparticipation in programs under the act.

The act also provides an initial opt-out period for a participating customer to elect to leave the community renewable energy program without penalty and establishes procedures concerning rates, customer billing, and renewable energy resource acquisition under the act.

SCR 6 – Supporting Advanced Nuclear Reactor Technology

Sponsored by Sen. Bramble

This concurrent resolution of the Legislature and the Governor supports the development and integration of advanced nuclear reactor technology as a way of supporting Utah’s continued economic growth while addressing the health of Utah’s environment and of its residents.

The resolution acknowledges Utah’s leadership, ingenuity, and prudence in solving tough generational challenges like climate change and air pollution.

The resolution further recognizes that advanced nuclear technology is a safe, resilient, and environmentally sustainable energy resource and that advanced nuclear technology is a flexible generation source that can support the integration of renewable resources in a carbon free manner. It supports the procurement of energy from advanced nuclear facilities as well as the construction and operation of advanced nuclear facilities within the state of Utah.

Coal and Minerals

ILLINOIS

SB 9 – Creates the Coal Ash Cleanup and Storage Act

Sponsored by Sen. Bennett

Promotes a healthful environment, including clean water, air, and land, meaningful public involvement, and the responsible disposal and storage of coal combustion residuals, so as to protect public health and to prevent pollution of the environment of this State.

The bill declares that no person may:

- Cause or allow the discharge of any contaminants from a CCR surface impoundment into the environment so as to cause, directly or indirectly, a violation of this Section or any regulations or standards adopted by the Illinois Pollution Control Board under this bill, either alone or in combination with contaminants from other sources;
- Construct, install, modify, operate, or close any CCR surface impoundment without a permit granted by the Illinois Environmental Protection Agency, or so as to violate any conditions imposed by such permit, any provision of this Section or any regulations or standards adopted by the Board under this bill; or
- Cause or allow, directly or indirectly, the discharge, deposit, injection, dumping, spilling, leaking, or placing of any CCR upon the land in a place and manner so as to cause or tend to cause a violation this Section or any regulations or standards adopted by the board under the law.

Before commencing closure of a CCR surface impoundment, in accordance with Board rules, the owner of a CCR surface impoundment must submit for approval a closure alternatives analysis that analyzes all closure methods being considered and that otherwise satisfies all closure requirements adopted by the Board under this Act. Complete removal of CCR, as specified by the Board's rules, from the CCR surface impoundment must be considered and analyzed. The selected closure method must ensure compliance with regulations adopted by the Board. The Board must adopt rules establishing construction permit requirements, operating permit requirements, design standards, reporting, financial assurance, and closure and post-closure care requirements for CCR surface impoundments.

WYOMING

SF 159 – Establishing New Opportunities for Coal-fired Generation

Sponsored by Rep. Barlow

Provides that the rates charged by an electric utility must not include any recovery of costs associated with new electric generation facilities built to replace the electricity generated from retired coal fired electric generating facilities unless the Public Service Commission determines that the electric utility made a good faith effort to sell the facility to another person prior to its retirement.

The bill provides a process for the sale of an otherwise retiring coal fired electric generating facility while exempting a person purchasing an otherwise retiring coal fired electric generation facility from regulation as a public utility.

The legislation also requires a public utility to purchase electricity generated from a purchased retiring coal-fired electric generation facility if it is offered at a specified rate as determined by the commission.

Energy Efficiency

OREGON

HB 2496 – Relating to Energy Conservation in Public Facilities

Sponsored by Rep. Holvey

Establishes the inclusion of battery storage in the definition of “green energy technology.”

The bill permits a contracting agency, as alternative to including green energy technology in construction, reconstruction or major renovation of public building, to make expenditure to improve energy use efficiency in public building.

It adds requirement to show results of analysis of total solar resource fraction that applies to site on which contracting agency intends to construct green energy technology that uses solar energy for space or water heating or to generate electricity.

The bill further permits a contracting agency to use green energy for space or water heating or to generate electricity if total solar resource fraction exceeds 75 percent and to enter into agreement with another contracting agency to pool resources or share costs related to including green energy technology or woody biomass energy technology or making expenditure to improve building energy use efficiency in construction, reconstruction or major renovation] consolidate in one public building, or in one location away from site of public building, all or substantial proportion of green energy technology that contracting agency would otherwise include as part of construction, reconstruction or major renovation of public building if total amount that contracting agency expends on green energy technology is aggregate of all amounts contracting agency must expend on each public building that is part of same project and if project, taken as whole, otherwise meets requirements of act.

Natural Gas and Petroleum

COLORADO

SB 181 – Protecting Public Welfare Regarding Oil and Gas Operations

Sponsored by Sens. Fenberg and Foote / Reps. Becker and Caraveo

Repeals the provision that local governments have so-called “House Bill 1041” powers, which are a type of land use authority over oil and gas mineral extraction areas, only if the Colorado oil and gas conservation commission has identified a specific area for designation.

The air quality control commission is directed to review its rules to consider whether to adopt more stringent rules and to adopt rules to minimize emissions of methane and other hydrocarbons, volatile organic compounds, and oxides of nitrogen.

The bill also clarifies that local governments have land use authority to regulate the siting of oil and gas locations to minimize adverse impacts to public safety, health, welfare, and the environment and to regulate land use and surface impacts, including the ability to inspect oil and gas facilities; impose fines for leaks, spills, and emissions; and impose fees on operators or owners to cover the reasonably foreseeable direct and indirect costs of permitting and regulation and the costs of any monitoring and inspection program necessary to address the impacts of development and enforce local governmental requirements. Section 4 also allows a local government or oil and gas operator to request the director of the commission to convene a technical review board to evaluate the effect of the local government’s preliminary or final determination on the operator’s application.

The legislative declaration for the act states that it is in the public interest to “foster” the development of oil and gas resources in a manner “consistent” with the protection of public health, safety, and welfare, including protection of the environment and wildlife resources; this has been construed to impose a balancing test between fostering oil and gas development and protecting public health, safety, and welfare. The bill further states that the public interest is to “regulate” oil and gas development to “protect” those values.

NEVADA

SB 154 – Natural Gas Purchase Authorization Process

Sponsored by Sen. Cancela

Requires the Public Utilities Commission of Nevada to adopt regulations authorizing a public utility which purchases natural gas for resale to engage in renewable natural gas activities and to recover the reasonable and prudent costs of such activities and requires such a public utility to attempt to incorporate renewable natural gas into its gas supply portfolio.

NORTH DAKOTA

SB 2344 – Relating to CO₂ Storage and Usage

Sponsored by Sen. Unruh

States that it is a valid exercise of the state's police powers to discourage the flaring of natural gas without hindering the continued exploration and production of oil and gas resources in the state.

The temporary underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas.

The bill states that it is in the public interest to:

- Promote the geologic storage of carbon dioxide to benefit the state and the global environment by reducing greenhouse gas emissions, to help ensure the viability of the state's coal and power industries, and to benefit the state economy. Carbon dioxide is a potentially valuable commodity, and geologic storage may increase its availability for commercial, industrial, or other uses, including enhanced recovery of oil, gas, and other minerals. Geologic storage requires cooperative use of surface and subsurface property interests and collaboration among property owners;
- Encourage and authorize cycling, recycling, pressure maintenance, secondary recovery operations, and enhanced recovery operations utilizing carbon dioxide for the greatest possible economic recovery of oil and gas; and
- That a person conducting operations authorized by the commission under this chapter may use as much of a subsurface geologic formation as reasonably necessary to allow for the temporary storage of natural gas, unit operations for enhanced oil recovery, geologic storage of carbon dioxide, utilization of carbon dioxide for enhanced recovery of oil, gas, and other minerals, or any other operation authorized by this act.

OREGON

SB 98 – Relating to Renewable Natural Gas

Sponsored by the Committee on Environment and Natural Resources

Directs Public Utility Commission (PUC) to adopt by rule a large renewable gas (RNG) program for large utilities and a small renewable gas program for small utilities.

The bill requires that rules include reporting requirements and a process for utilities to fully recover prudently incurred costs. It stipulates that rules may not prohibit an affiliated interest of a utility from making capital investments in a biogas production project if the affiliated interest is not a public utility. Requires PUC rule adoption no later than July 31, 2020.

The legislation also authorizes participating large natural gas utility (200,000 or more customer accounts in Oregon) to make qualified investments and procure RNG from third parties to meet specified portfolio targets for calendar years 2020-2050 for the percentage of natural gas purchased for distribution to retail customers that is RNG, and it directs

the PUC to adopt ratemaking mechanisms that ensure the recovery of all prudently incurred costs that contribute to utility meeting targets.

The costs associated with qualified investment by large natural gas utility are required to include the cost of capital established by PUC in most recent general rate case, and the utility is further required to engage in competitive bid process before making qualified investment in biogas production that is upstream of conditioning equipment, pipeline interconnection, or gas cleaning.

Reorganization and Coordination

MAINE

SB 1679 –Establishing a Climate Council and Action Plan

Sponsored by Sen. Woodsome

Establishes the Maine Climate Council in order to update and implement the state’s climate action plan.

The bill declares that by January 1, 2030, the State must reduce gross annual greenhouse gas emissions to at least 45 percent below the 1990 gross annual greenhouse gas emissions level. By January 1, 2050, the State must reduce gross annual greenhouse gas emissions to at least 80 percent below the 1990 gross annual greenhouse gas emissions level.

By December 1, 2020, and every four years thereafter, the Maine Climate Change Council, with input from stakeholders, must update the state climate action plan under this section and must include in the plan strategies to meet the reduction levels.

NEW JERSEY

SB 3207 – Global Warming Response Act Revisions

Sponsored by Sen. Smith

Establishes new time frames for the implementation of certain requirements in the “Global Warming Response Act” (GWRA) and requires the Department of Environmental Protection (DEP) to adopt a strategy to reduce short-lived climate pollutants.

The bill establishes new time frames for the completion of the legislature’s directives in the GWRA. Specifically, within 18 months after the date of enactment of the bill, the DEP is required to adopt rules and regulations establishing a greenhouse gas emissions monitoring and reporting program. Additionally, within 18 months after the date of enactment, and biennially thereafter, the DEP is required to prepare a report on the status of the greenhouse gas emissions monitoring and reporting program, the current level of greenhouse gas emissions in the state, and the progress made toward compliance with the goals established in the GWRA.

Finally, within one year after the date of enactment, the bill requires the DEP to prepare a report recommending additional measures necessary to reduce greenhouse gas emissions to achieve the 2050 goal. The bill also requires the State to develop a comprehensive strategy to reduce emissions of short-lived climate pollutants in the State. Short-lived climate pollutants, such as black carbon, fluorinated gases, and methane, are greenhouse gases that have a relatively short lifespan in the atmosphere, from a few days to a few decades, but that have a warming influence on the climate that is greater than that of carbon dioxide. The requirement to adopt a comprehensive strategy under this bill is based on legislation adopted and implemented in California.

Utilities

OHIO

HB 6 – Creates the Clean Air Program

Sponsored by Rep. Callender

Requires an electric distribution utility (EDU) to collect a per-customer monthly charge from all of its retail electric customers in Ohio beginning January 1, 2020, and ending December 31, 2026.

The charge must be sufficient enough to produce the following revenue requirements:

- \$150 million annually for total disbursements from the Nuclear Generation Fund; and
- \$20 million annually for total disbursements from the Renewable Generation Fund.

The bill further requires the Public Utilities Commission (PUCO) to determine the method by which the revenue is allocated or assigned to each EDU for billing and collection provided that the method is based on:

- The relative number of customers;
- The relative quantity of kilowatt hour sales; or
- A combination of the two.

It also requires the level and structure of the charge to be authorized by the PUCO through a process that the PUCO must determine is not for an increase in any rate, joint rate, toll, classification, charge, or rental.

Charges for bills rendered beginning January 1, 2020, and ending December 31, 2026 must not exceed the following:

- Residential: \$0.85; and
- Industrial customers that exceeded 45 million kilowatt hours of electricity at one location in the preceding year, \$2,400.

The bill also requires the following:

- The level and design of the charge or charges established for nonresidential customers that do not exceed 45 million kilowatt hours of electricity to be established in a way that avoids abrupt or excessive bill impacts for typical customers; and
- Authorized charges to be subject to reconciliation of actual revenue collected with revenue needed to meet the revenue requirements.

Further, it authorizes EDUs to adopt accounting practices to facilitate reconciliation of revenue collected. The charges are authorized to be extended beyond December 31, 2026, for the purposes of reconciliation.

The bill also creates the Nuclear Generation Fund and the Renewable Generation Fund, where the above charges are to be deposited (88.25 percent of charges going into the Nuclear Generation Fund and 11.75 percent of charges going into the Renewable Generation Fund).

Further, the act permits an owner or operator of an in-state nuclear resource to apply, not later than February 1, 2020, to the authority to receive quarterly payments from the Nuclear Generation Fund for nuclear resource credits earned by the resource. It also requires the application to include certain financial, operational, and risk information pertaining to the resource.

The bill requires the authority to issue one nuclear resource credit to the nuclear resource for every megawatt hour reported and approved by the authority. The payments for nuclear resource credits are required to begin in April of 2020 and end in January of 2027.

An owner or operator of an in-state solar resource that obtained a certificate for construction of a major utility facility from the Power Siting Board prior to June 1, 2019, and that is interconnected with the transmission grid that is subject to the operational control of PJM interconnection, L.L.C., or its successor, to apply, not later than February 1, 2020, to the authority is permitted to receive quarterly payments from the Renewable Generation Fund for renewable energy credits earned by the resource, according to the bill.

The authority is required to issue one renewable energy credit to the solar resource for every megawatt hour reported and approved by the authority. The bill sets the price of a renewable energy credit at \$9 per megawatt hour. Beginning April of 2020 and ending January of 2027, the legislation requires the authority every quarter and not later than 14 days after the receipt of the megawatt hours produced to direct the Treasurer to remit money from the Renewable Generation Fund to pay for the credits earned by the resource during the previous quarter. The bill also permits the authority to make use of the staff and experts employed by PUCO in such manner as is provided by mutual arrangement between the authority and PUCO, and requires PUCO's information, data, and equipment to be placed at the disposal of the authority.

Finally, the legislation requires the authority to adopt rules, not later than January 1, 2020, for the implementation of the bill's provisions regarding payments to in-state nuclear and in-state solar resources.

WASHINGTON

SB 5116 – Supporting Clean Energy Transition

Sponsored by Sen. Carlyle

Establishes the Washington clean energy transformation act to support the clean energy economy and to transition to a clean, affordable, and reliable energy future.

The bill requires all electrical utilities, by December 31, 2025, to eliminate coal-fired resources from their allocation of electricity. Among other requirements, the Utilities and Transportation Commission (UTC) must accelerate depreciation schedules for any coal-fired resource to a date no later than December 31, 2025. It establishes the policy that all retail sales of electricity to Washington customers be greenhouse gas neutral by January 1, 2030, and imposing requirements on electric utilities. The Department of Ecology (DOE) must establish a conversion factor.

The Department of Commerce (COM) and DOE must determine if energy created by solid waste provides net greenhouse gas reduction. DOE, in consultation with COM and UTC must develop criteria for utilities to implement energy transformation project investments.

Investor-owned utilities are now required to submit a four-year implementation plan to the UTC beginning January 1, 2022. The UTC, after a hearing, is required to adopt, reject, or adopt with conditions, by order interim targets and a clean energy implementation plan. The UTC for investor-owned, and COM for customer-owned utilities, must adopt rules regarding incremental costs of complying with the section.

Computer Technology and Digital Innovation

HAWAII

HB 560 – Establishing Energy Training Requirements

Sponsored by Rep. Lowen

Requires University of Hawaii community colleges to establish energy systems and technology training courses for county officers and employees responsible for permitting, inspecting, licensing, and approving construction projects and an advisory committee of industry stakeholders and to submit a report to the legislature.

Environmental Legislation

Air Quality and Pollution Control

COLORADO

HB 1261 – Action to Reduce Pollution

Sponsored by Reps. Becker, Jackson, Winter, and Williams

States that Colorado must have statewide goals to reduce 2025 greenhouse gas emissions by at least 26 percent, 2030 greenhouse gas emissions by at least 50 percent, and 2050 greenhouse gas emissions by at least 90 percent of the levels of statewide greenhouse gas emissions that existed in 2005.

The bill specifies considerations that the air quality control commission is to take into account in implementing policies and promulgating rules to reduce greenhouse gas pollution, including the benefits of compliance and the equitable distribution of those benefits, the costs of compliance, opportunities to incentivize clean energy in transitioning communities, and the potential to enhance the resilience of Colorado's communities and natural resources to climate impacts.

The commission must consult with the public utilities commission with regard to rules that affect the providers of retail electricity in Colorado. The commission must not mandate an electric public utility to reduce its emissions by 2030 more than is required by a clean energy plan filed with the public utilities commission if the plan demonstrates an 80 percent reduction from 2005 statewide green gas emission levels by 2030. A clean energy plan voluntarily filed by a cooperative electric association that has exempted itself from the public utilities commission's jurisdiction or a municipally owned utility with the public utilities commission is deemed approved if the plan demonstrates an 80 percent reduction by 2030.

SB 96 – Collecting Long-term Climate Change Data

Sen. Donovan and Rep. Hansen

Requires the air quality control commission in the department of public health and environment (department) to collect greenhouse gas emissions data from greenhouse gas-emitting entities and report on the data, including a forecast of future emissions.

The commission will adopt rules by June 1, 2020, to require the reporting, and propose draft rules by July 1, 2020, to cost-effectively allow the state to meet its greenhouse gas emission reduction goals. The act also requires the division of administration in the department to update a statewide inventory of greenhouse gas emissions by sector and to post the findings of the inventory on the division's website through 2030.

INDIANA

SB 442 – Rules Regarding CO₂ Storage Underground

Sponsored by Sen. Ford

Declares the underground storage of carbon dioxide to be a public use and service, in the public interest, and a benefit to the welfare and people of Indiana.

The bill authorizes the establishment of a carbon sequestration pilot project (pilot project) that will capture carbon dioxide at a proposed ammonia production facility in West Terre Haute and inject the carbon dioxide into underground strata and formations pursuant to a Class VI well permit from the United States Environmental Protection Agency (EPA) as an alternative to releasing the carbon dioxide into the air.

It provides that if the operator of the pilot project is not able to reach an agreement with an owner of property to acquire ownership of underground strata or formations located under the surface of the property or ownership or

other rights to one or more areas of the surface of the property for purposes of establishing and operating monitoring facilities required by the EPA.

The operator of the pilot project may exercise the power of eminent domain to make the acquisition. Provides that the pilot project operator's acquisitions by eminent domain must be made through the law on eminent domain for gas storage, which provides that a condemnor, before condemning any underground stratum or formation, must have acquired the right to store gas in at least 60 percent of the stratum or formation by a means other than condemnation.

The bill further amends the law on eminent domain for gas storage to make it applicable to the pilot project operator's acquisitions by eminent domain. Provides that the state of Indiana, upon the recommendation of the director of the department of natural resources and review by the state budget committee, may obtain ownership of the carbon dioxide stored in the underground strata and formations and the underground strata and formations in which the carbon dioxide is stored for 12 years after pilot project underground injections begin or, if the underground injections cease in less than 12 years, after the underground injections cease.

Finally, the bill urges the legislative council to assign to an appropriate interim study committee for the 2019 interim the task of studying the geologic storage of carbon dioxide.

NEVADA

SB 254 – Annual Greenhouse Gas Emissions Reporting Requirement

Sponsored by Sen. Brooks

Requires the state Department of Conservation and Natural Resources to issue an annual report concerning greenhouse gas emissions in the state.

ALABAMA

Alabama adopted 20 energy and environmental bills during the 2019 legislative session. As with several other of our member states, Alabama passed HB 400 authorizing the placement, construction, installation, operation, and use of broadband and other advanced communication capabilities within electric easements by electric providers. With HB 500, the state passed enhanced penalties for littering of specific items, including cigarettes.

Energy Legislation

Coal and Minerals

HJR 236 – Support for U.S. Congressional Bills Relating to Retired Coal Miners

Sponsored by Reps. Rowe and South

Declares that “America has an obligation to our retired coal miners for the sacrifices they have made for our nation and the Alabama legislature must be on record as supporting S. 27, S. 671, H.R. 934 and H.R. 935 and we urge Alabama's entire Congressional delegation to become cosponsors of this legislation and work for passage.”

The congressional bills referred to in the resolution would secure health benefits and pensions for retired coal miners.

SB 252 – Coal Mine Foreman/Boss Clarifications

Sponsored by Sen. Allen

Clarifies requirements for certification as a coal mine foreman and coal mine fire boss by providing revised qualification guidelines for applicants holding college degrees.

This bill provides that an individual holding an out-of-state certification as a coal mine foreman or a coal mine fire boss may temporarily serve as a coal mine foreman or coal mine fire boss if that individual otherwise meets the requisite requirements for the position.

Emergency Management and Homeland Security

HB 163 – Waiving Fuel Licensing Requirements During an Emergency

Sponsored by Rep. McMillian

Authorizes the revenue commissioner to temporarily waive licensing requirements for fuel importers, exporters, and transporters during a state of emergency to help ensure the free flow of motor fuel products to affected areas.

Natural Gas and Petroleum

SJR 78 – Urges the Federal Government to Release the National Outer Continental Shelf Oil and Gas Leasing Program

Sponsored by Sen. Orr

Urges the federal government to move forward with the immediate release of the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program with continued and expanded access.

Reorganization and Coordination

SB 242 – Establishing the Alabama Construction Trade Academy Fund

Sponsored by Sens. Givhan, Price, and Gudger

Creates the Alabama Construction Trade Academy Funding Act.

The fund is composed of federal, state, and private funds through direct budgetary funding and grants to be used for the expansion of construction trade education.

This bill requires the Alabama Energy and Residential Codes Board to develop a statewide program to increase the availability of construction trade education by providing educational grants for public and private construction trade schools. It also requires the Energy Division of the Alabama Department of Economic and Community Affairs to administer the program.

Utilities

HB 400 – Broadband Installation by Electric Providers

Sponsored by Reps. Shedd and Ledbetter

Authorizes the placement, construction, installation, operation, and use of broadband and other advanced communication capabilities and related facilities within electric easements by electric providers.

The act authorizes electric providers to engage in, and to permit electric providers to authorize others to engage in, providing broadband services through advanced communications capabilities within electric easement.

The bill further grants the right to electric providers to condemn easements and rights-of-way for advanced communications capabilities, and it also permits consents through service agreements, licenses, leases, and membership agreements to place, construct, install, operate and use advance communication capabilities within an electric easement.

HB 517 – Removing Sunset Provision from Energy Security Act

Sponsored by Rep. Baker

Removes the sunset provision from the Energy Security Act of 2015 effectively extending the act indefinitely.

Establishes the right of incumbent electric suppliers to construct, own, operate, and maintain new electric transmission facilities and upgrades for their own electric systems. The act also allows two or more electric suppliers to agree on a new transmission facility that would connect to each of their electric systems and provides for appeals of disputes to the circuit court.

SB 315 – Relating to Preventing Damage to Underground Facilities

Sponsored by Sens. Roberts, Smitherman, Coleman-Madison, and Waggoner

Provides for the notification required prior to excavation or demolition near a public or utility easement and specifies when the premarking of sites where excavation and demolition should occur.

The bill requires certain operators of underground facilities to join the “One-Call Notification System” and would require the system to submit an annual report of operations and financial review to the Public Service Commission.

The bill also revises civil penalties for violations of the notification and other requirements and specifies that certain penalties be deposited into the Underground Damage Prevention Fund.

Finally, the legislation establishes the Underground Damage Prevention Authority to, with administrative support from the Public Service Commission, enforce the requirements of the notification and penalty provisions and review the adequacy of the enforcement process.

SB 381 – Distribution of In-Lieu-of-Taxes Payments from TVA

Sponsored by Sens. Butler, Orr, and Melson

Declares that if a volunteer fire department is decertified, the proceeds provided by TVA in lieu-of-taxes to the decertified volunteer fire department must be distributed equally to the remaining volunteer fire departments in Limestone County. The act adding this amendatory language is retroactive to January 1, 2018.

Computer Technology and Digital Innovation

SB 47 – Autonomous Vehicle Authorization

Sponsored by Sen. Allen

Authorizes autonomous vehicles operated by an automated driving system.

The bill declares that a political subdivision of this state or a state agency may not impose a franchise, requirement, or rule, including taxes and performance standards, related to the operation of an automated driving system, autonomous vehicle, or teleoperation system.

SJR 45 – Commending the Technology Industry

Sponsored by Sen. Waggoner

Commends Alabama’s technology industry and AI job creators.

Among the accomplishments listed by the resolution are that Alabama has seen a 57 percent increase in the number of job postings related to emerging technologies, smart cities, drones, artificial intelligence, virtual and augmented reality, and blockchain.

SJR 71 – Establishing the Alabama Commission on AI and Associated Technologies

Sponsored by Sen. Waggoner

Establishes the Alabama Commission on Artificial Intelligence.

The commission must review and advise the Governor and the legislature on all aspects of the growth of artificial intelligence and associated technology in the state and the use of artificial intelligence in governance, health care, education, environment, transportation, and industries of the future such as autonomous cars, industrial robots, algorithms for disease diagnosis, manufacturing, and other rapid technological innovations and their effect on society and the quality of life in a manner consistent with our American values and for the benefit of Alabama citizens.

Environmental Legislation

Coastal Zone Management

HJR 265 – Commending Efforts to Secure Management of Red Snapper Fishery

Sponsored by Rep. Pringle

Commends the efforts of the Alabama Congressional Delegation and the Alabama Department of Conservation and Natural Resources, Marine Resources Division, for their efforts to secure management of the red snapper fishery for all Alabamians.

Emergency Management and Homeland Security

SJR 95 – Encouraging Federal, State, and Local Agencies to Develop Disaster Debris Removal Policy

Sponsored by Sens. Whatley and Price

Encourages all local, state, and federal agencies equipped to assist with debris removal after a natural disaster to work together to develop a comprehensive policy for removing debris from communities affected by a natural disaster.

The resolution further urges the local, state, or federal agencies involved in the debris removal process to use local contractors to implement and execute the debris removal and to facilitate other assistance in the aftermath of a natural disaster in accordance with the policies created and established by the comprehensive debris removal policy.

Inland Water Resource Management and Conservation

SJR 60 – Recognizing Renew Our Rivers

Sponsored by Sen. Waggoner

Commends the Renew Our Rivers community river cleanup for its contributions over the past two decades in cleaning, protecting, and conserving Alabama's waterways.

Land Management and Conservation

SB 282 – Exempting Timber Lands from Fire District Fees

Sponsored by Sens. Albritton, Williams, and Livingston

Exempts timber lands from fire district service charges or fees and places the responsibility for the control and coordination of fire prevention, fire protection and fire-fighting services under the Alabama Forestry Commission.

SB 324 – Soil and Water Conservation District Amendments

Sponsored by Sens. Chesteen, Williams, Sessions, Scofield, and Whatley

Authorizes the supervisors and employees of a soil and water conservation district to loan or rent equipment and supplies for the conservation of soil resources and for the prevention and control of soil erosion.

The bill extends limited immunity from civil liability to district supervisors and employees who loan or rent equipment and supplies for the conservation of soil resources and for the prevention and control of soil erosion.

Solid Waste

HB 500 – Established and Enhancing Litter Penalties

Sponsored by Rep. Wilcox

Establishes additional penalties for criminal littering and include enhanced penalties for littering of cigarettes, cigars, containers of urine, restaurant food containers, and other specified waste items.

Water Quality and Pollution Control

HB 111 – Wastewater Board Sunset Extension

Sponsored by Rep. Sanderford

Provides for the continuance of the Alabama Onsite Wastewater Board until October 1, 2020.

HB 206 – Requiring Connection to Sewerage Systems

Sponsored by Rep. Lawrence

States that the Lowndes County Commission is authorized to require properties to connect to public sanitary sewerage systems where available or private disposal systems.

ARKANSAS

Arkansas adopted 29 energy and environmental bills during the 2019 legislative session. Continuing a trend seen in our member states over the past few years, Arkansas passed HB 1720 revising the criminal penalties when the property involved is oil and gas equipment. With HB 1763 Arkansas reduced the number of state agencies reporting to the Governor from 42 to 15 in order to minimize overlapping of authority and duplication of effort.

Energy Legislation

Coal and Minerals

HB 1659 – Modifying County Equalization Board Mineral Rights Jurisdiction

Sponsored by Rep. Boyd and Sen. Pitsch

Amends current law such that a county equalization board does not have jurisdiction over and must not accept or consider a petition or letter for the adjustment of the valuation of producing mineral rights in accordance with the Assessment Coordination Department's regulations.

Energy Efficiency

HB 1636 – Modifying Definitions Related to Energy Savings Contracts

Sponsored by Rep. Beck

Modifies certain definitions applying to the Guaranteed Energy Cost Savings Act and energy savings contracts.

Specifically, “qualified provider” is amended to mean the same as it appears in existing code – a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

- Is properly licensed in the state of Arkansas;
- Has been reviewed and certified by the office as a qualified provider under this subchapter;
- Is experienced in the design, implementation, measurement, verification, and installation of energy cost savings measures;
- Has at least five years of experience in the analysis, design, implementation, installation, measurement, and verification of energy efficiency and facility improvements;
- Has the ability to arrange or provide the necessary financing to support a guaranteed energy cost savings contract; and
- Has the ability to perform under a contract that requires the person or business to guarantee the work performed by one or more subcontractors.

The definition of “Equipment warranty period” is modified to mean the time following the execution of a guaranteed energy cost savings contract in which a material defect in an installed energy conservation measure is required to be replaced or corrected by the manufacturer or an energy service company.

“Useful life” now means the rated service life of an individual energy conservation measure as defined by the:

- American Society of Heating, Refrigerating and Air Conditioning Engineers;
- Illuminating Engineering Society; or
- Solar Energy Industries Association.

The bill also states that a school district may provide by resolution that the school district must comply with the rules promulgated by the Arkansas Pollution Control and Ecology Commission under the Guaranteed Energy Cost Savings Act.

Finally, the bill declares that if a guaranteed energy cost savings contract includes energy cost savings measures possessing either an active equipment warranty period or a combined useful life in excess of twenty years, then a guaranteed energy cost savings contract may be extended to the length of the equipment warranty period or the weighted useful life of the relevant energy cost savings measures. A guaranteed energy cost savings contract may not exceed twenty years without the approval of the Arkansas Energy Office of the Arkansas Department of Environmental Quality.

HB 1776 – Sustainable Energy-Efficient Buildings Program Provisions

Sponsored by Rep. Love

Amends the Sustainable Energy-Efficient Buildings Program. The definition of “major facility” is modified to mean a single building larger than 20,000 gross square feet of occupied or conditioned space or an aggregate of buildings larger than 50,000 combined square feet of occupied or conditioned space.

The definition of a public agency is modified to mean a state agency, office, officer, board, department, or commission more than 50,000 gross square feet of occupied or conditioned space. The Sustainable Energy-Efficient Buildings Program is established to promote energy conservation in buildings owned or, according to the modifications, leased by public agencies and buildings owned or leased by institutions of higher education.

A major facility of a public agency or an institution of higher education must consider a life-cycle cost analysis and be designed, constructed, renovated, and certified in accordance with the Performance Rating Method of Appendix G of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Standard 90.1 – 2013, as it existed on January 1, 2018.

Finally, the bill states that the Arkansas Energy Office of the Arkansas Department of Environmental Quality must develop an energy program to manage energy, water, and other utility uses for public agencies that will reduce total aggregate energy consumption per gross square foot for all existing applicable public agency buildings, update the program annually, and recommend public agency energy consumption reduction goals every five years.

SB 679 – Performance-based Efficiency Project Modifications

Sponsored by Sen. Ingram

Modifies the definition of “performance-based efficiency project” in the Local Government Capital Improvement Bond Act of 1985 to mean:

- A new facility that is designed to reduce the consumption of energy or natural resources or result in operating cost savings as a result of changes that:
 - Do not degrade the level of service or working conditions;
 - Are measurable and verifiable under the International Performance Measurement and Verification Protocol, promulgated by the Arkansas Pollution Control and Ecology Commission in the rules required under current law; and
 - Are measured and verified by an audit performed by an independent engineer or by a qualified efficiency engineering company, including the vendor providing the performance-based efficiency project; or
- An existing facility alteration that is designed to reduce the consumption of energy or natural resources or result in operating cost savings as a result of changes that conform with existing regulations.

Natural Gas and Petroleum

HB 1061 – Transfer of Oil and Gas Funds

Sponsored by the House Joint Budget Committee

Amends current law such that the Oil and Gas Commission may request the Chief Fiscal Officer to transfer up to \$2,000,000 per year on his or her books and the books of the state Treasurer and the Auditor of the state from the Oil and Gas Commission Fund to the Abandoned and Orphaned Well Plugging Fund after review from the Chief Fiscal Officer of the state and reporting to the Arkansas Legislative Council or Joint Budget Committee.

The effective date was also modified from July 1, 2018 through June 30, 2019 to July 1, 2019 through June 30, 2020.

HB 1720 – Criminal Penalties Related to Oil and Gas Equipment Theft or Vandalism

Sponsored by Rep. Jean

Revises the criminal penalties when the property involved is oil and gas equipment. The proposed bill recodifies the definition of “building material,” “permitted construction site,” “utility,” and “utility property,” and defines “cost of incidental damage,” “incidental damage,” and “oil and gas equipment.”

According to the bill, a person commits the offense of theft of property if he or she knowingly takes or exercises unauthorized control over or makes an unauthorized transfer of an interest in the property of another person with the purpose of depriving the owner of the property, or obtains the property of another person by deception or by threat with the purpose of depriving the owner of the property.

The penalties for theft of oil and gas equipment are now a Class B felony if:

- The property is oil and gas equipment, the value of which is less than \$25,000 but more than \$5,000 and the person:
 - Caused more than \$250 in incidental damage to the owner of the oil and gas equipment during the commission of the offense; or
 - Transported the oil and gas equipment across state lines to sell or dispose of the oil and gas equipment.

The penalties for theft of oil and gas equipment are now a Class C felony if:

- The property is oil and gas equipment, the value of which is \$5,000 or less but more than \$1,000 and the person:
 - Caused more than \$250 in incidental damage to the owner of the oil and gas equipment during the commission of the offense; or
 - Transported the oil and gas equipment across state lines to sell or dispose of the oil and gas equipment.

The penalties for theft of oil and gas equipment are now a Class D felony if:

- The property is oil and gas equipment, the value of which is \$1,000 or less, and the person:
 - Caused more than \$250 in incidental damage to the owner of the oil and gas equipment during the commission of the offense; or
 - Transported the oil and gas equipment across state lines to sell or dispose of the oil and gas equipment.

SB 336 – Concerning Revenue Generated by Fuel Taxes and Electric Vehicle Registrations

Sponsored by Sen. Rice

Provides additional revenue for the maintenance and repair of highways, streets, and bridges in the state in part funded by revenue generated from taxation on motor fuels and distillate special fuels as well as revenue generated by additional registration fees on electric vehicles and hybrid vehicles.

The Director of the Department of Finance and Administration will determine the rate of the wholesale sales tax levied under this legislation by multiplying the twelve-month average wholesale selling price of both motor fuel and distillate special fuel for the period of January 1, 2018, through December 31, 2018, by 1.6 and 2.9 percent respectively.

The legislation dictates that in addition to the other fees required to be paid to register a vehicle, there now exists an annual fee of \$200 for each electric vehicle registered and \$100 for each hybrid vehicle registered.

Reorganization and Coordination

HB 1763 – Transformation and Efficiencies Act of 2019

Sponsored by Rep. Davis

Reduces the number of state agencies reporting to the Governor from 42 to 15 in order to minimize overlapping of authority and duplication of effort.

Among the agencies established by the law is the Department of Energy and Environment. The administrative functions of the following state entities were transferred to the Department of Energy and Environment by a cabinet-level transfer:

- The Advisory Committee on Petroleum Storage Tanks;

- The Arkansas Department of Environmental Quality, now to be known as the Division of Environmental Quality;
- The Arkansas Geological Survey;
- The Arkansas Pollution Control and Ecology Commission;
- The Liquefied Petroleum Gas Board;
- The Nutrient Water Quality Trading Advisory Panel; and
- The Oil and Gas Commission.

The Division of Environmental Quality now consists of the divisions transferred from the Arkansas Pollution Control and Ecology Commission as of July 1, 1971, and all other divisions, programs, and offices under the Arkansas Department of Environmental Quality as of June 30, 2019. All other departments, divisions, agencies, and commissions within this state must cooperate with the Division of Environmental Quality in fulfilling the Division of Environmental Quality's responsibilities as defined by current law.

All personnel of the Division of Environmental Quality will be employed by the Department of Energy and Environment and serve at the pleasure of the Secretary of the Department of Energy and Environment. This reorganization does not reduce any right which an employee in the Division of Environmental Quality has under any civil service or merit system.

SB 225 – Repealing Requirement of State Energy Plan Development

Sponsored by Rep. Wing

Strikes existing law requiring the Arkansas Economic Development Commission to develop and implement a state energy plan meant to guide the state on issues related to energy supply, efficiency, and resource development of both fossil and renewable energy sources and replaces it with language to assist rural communities and agencies with educational opportunities and assistance to enhance the quality of life in rural Arkansas.

SB 229 – Allowing for Public Water Authorities to Join the Public Retirement System

Sponsored by Sen. Dismang

Allows for employees of public water authorities to become members of the Arkansas Public Employees' Retirement System.

Utilities

HB 1389 – Amending the Definition of Utility Property

Sponsored by Rep. Fite

Amends law relating to theft of utility property by modifying the definition of "utility property" to include a backup deep cycle battery or other power supply.

The bill also clarifies the description of "fixture" to include a backup deep cycle battery or other power supply as it relates to damaging wires and other fixtures of telephone, cable, and electric power companies.

HB 1738 – Certificate of Public Convenience Rule Changes

Sponsored by Rep. Beck

Modifies current law as it pertains to obtaining a certificate of public convenience and necessity from the Arkansas Public Service Commission under certain conditions.

After the commission conducts a hearing for a person or corporation that primarily transmits electricity and has not been directed to construct an electric transmission facility from a regional transmission organization, the commission may grant or deny all or part of the application upon any terms or conditions the commission finds appropriate for the purposes of this subchapter subject to the following considerations:

- The commission must only authorize the person or corporation to contract with a municipality or a consolidated utility district that is not located within the service territory of another public utility;
- The commission must not authorize the person or corporation to serve any customers outside of the boundaries of a municipality or consolidated utility district;
- The commission must not authorize the person or corporation to serve any customers that are otherwise served by, or located within, the service territory of another public utility; and
- The commission must not grant a certificate of public convenience and necessity under this subchapter to a person or corporation if doing so would result in an unreasonable impact on any other public utility or on the customers of any other electric utility in this state that is inconsistent with the public interest as determined by the commission.

HB 1818 – Concerning Property Rights for Electric Utilities

Sponsored by Rep. Perry

Removes the requirement that an electric utility attain a certificate of public convenience and necessity for an electric utility that owns or has legally recognized right-of-way, easement, or similar property rights not acquired by eminent domain and traverses the construction or connection of the following electric utility facilities:

- A new or existing transmission or distribution substation, transmission switching station, or transmission metering point and associated facilities or the extension to such facilities, provided that the public utility owns or has a legally recognized right-of-way, easement, or similar property right to the property that is traversed by the construction or connection of the facilities
- If the electric public utility is not an electric cooperative:
 - Any distribution lines to or from approved facilities;
 - Transmission lines to or from approved facilities of up to two miles in length with a voltage of greater than one hundred kilovolts (100 kV); or
 - Transmission lines to or from approved facilities of up to five miles in length with a voltage of less than or equal to one hundred kilovolts (100 kV); or
- If the electric public utility is an electric cooperative:
 - Any distribution lines to or from approved facilities; or
 - Any transmission lines up to five miles in length to or from approved if the electric cooperative has informed the landowners whose property is traversed according to the electric cooperative's business practices.
 - Property that the public utility has previously acquired by eminent domain for the construction, operation, or connection of any other public utility facility is considered a legally recognized property right for the purposes of this legislation.

This language does not apply if the transmission or distribution lines to or from the approved facilities include crossing a navigable waterway.

Updates certain definitions as they apply to the Arkansas Renewable Energy Development Act of 2001 and modifies the public service commission’s authority as well as rules regarding net-metering at municipal utilities.

“Avoided cost” is now defined as the costs to an electric utility of electric energy or capacity, or both, that, but for the generation from the net metering facility or facilities, the utility would generate itself or purchase from another source as determined by the commission. For municipal utilities, the definition is deferred to the governing body of the utility.

The legislation defines a “municipal utility” as a utility system that provides electricity and is owned or operated by a municipality. Further, it defines municipal utilities as including without limitation:

- A utility system managed or operated by a nonprofit corporation; and
- A utility system owned or operated by a municipality or by a consolidated utility district under the General Consolidated Public Utility System Improvement District Law.

The definitions of “net excess generation” and “net metering” clarify that the amount of electricity must be measured in kilowatt hours or kilowatt hours multiplied by the applicable rate. A “net-metering customer” is now defined as a customer of an electric utility that owns a net-metering facility or leases the facility subject to the following conditions:

- A lease may not permit the sale of electric energy measured in kilowatt hours or electric capacity measured in kilowatts between the lessor and lessee; and
- A lease may not include any charge per kilowatt hour or any charge per kilowatt.

A government or other entity exempt from state and federal income tax that obtains electric energy from a net metering facility under a service contract qualifying for safe-harbor protection is also considered a net-metering customer.

The definition of “net-metering facility” now includes a facility producing electric energy that may also include an energy storage device configured to receive electric energy solely from a net metering facility. The capacity of an energy storage device must not be used to calculate the capacity limits defined by current law if the energy storage device is configured to receive electric energy solely from a net metering facility. Following notice and opportunity for public comment, the commission must establish appropriate rates, terms, and conditions for net metering. For net-metering customers who receive service under a rate that does not include a demand component, the commission may:

- Require an electric utility to credit the net-metering customer with any accumulated net excess generation as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate in the next applicable billing period and base the bill of the net-metering customer on the net amount of electricity as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate that the net-metering customer has received from or fed back to the electric utility during the billing period;
- Take the following actions if those actions are in the public interest and doing so will not result in an unreasonable allocation of or increase in costs to other utility customers:
 - Separately meter the electric energy, measured in kilowatt hours, supplied by the electric utility to the net-metering customer and the electric energy, measured in kilowatt hours, that is generated by the net-metering customer’s net-metering facility that is fed back to the electric utility at any time during the applicable billing period;
 - Apply the commission-approved retail rate to all kilowatt hours that are supplied by the electric utility to a net metering customer by the electric utility during the applicable period determined by a commission;

- Apply the avoided cost of the electric utility plus any additional sum determined under current rules to all kilowatt hours supplied to the electric utility by a net metering customer, during the period determined by a commission, which must be credited to the total bill of the net-metering customer in a dollar value; and
- The additional sum added to the avoided cost of the electric utility may be applied after the demonstration of quantifiable benefits by the net-metering customer and must not exceed 40 percent of the avoided cost of the electric utility;
- Authorize an electric utility to assess a net-metering customer that is being charged a rate that does not include a demand component a per-kilowatt-hour fee or charge to recover the quantifiable direct demand-related distribution cost of the electric utility for providing electricity to the net-metering customer that is not:
 - Avoided as a result of the generation of electricity by the net-metering facility; and
 - Offset by quantifiable benefits; or
- Take other actions that are in the public interest and do not result in an unreasonable allocation of costs to other utility customers.

According to the bill, a municipal utility must allow net-metering facilities to be interconnected according to the ordinances, rules, or regulations established by the governing body of the municipal utility. The governing body of municipal utility may elect to follow procedures current established regulations or may adopt ordinances, rules, or regulations establishing the rates, terms and conditions allowing the interconnection of net-metering facilities, including generation facilities and energy storage devices whether owned or leased by a customer or operated by a third-party on behalf of a customer.

The governing body of a municipal utility may limit the generating capacity of a net-metering facility to less than 25 kW for residential customers or 300 kW for nonresidential customers only after the governing body finds that the capacity limit is necessary for reliable utility operations or the public health, safety, or welfare.

Further, the governing body of a municipal utility must not establish a rate or fee that reduces the value of electric energy from a net-metering facility to below the avoided cost of the municipal utility. For customers who receive service under a rate that includes a demand component, the governing body of the municipal utility must require a municipal utility to credit a net-metering customer with any accumulated net excess generation in the next applicable billing period and base the bill of the customer on the net amount of electricity that the net-metering customer has received from or fed back to the municipal utility during the billing period.

SB 289 – Public Utility Franchise Fee Modifications

Sponsored by Sen. English, Reps. Wing and Lowery

Amends the law concerning local jurisdiction over utilities such that a franchise fee for a public utility may not exceed 4.25 percent of revenue collected by the public utility from its customers in the city or town for rates and fees charged by the public utility.

Further, a participating public agency may not require a public body created as prescribed by the legislation to pay a franchise fee under authority of any other law.

Computer Technology and Digital Innovation

SB 632 – Arkansas Cyber Initiative Act

Sponsored by Sens. English, Irvin, and Hendren and Rep. Meeks

Establishes that the Arkansas Economic Development Commission may work with universities, colleges, government agencies, and the private business sector to establish a cyber alliance to be known as the “Arkansas Cyber Initiative” that will support collaborations for the purpose of improving cyber security and the economy of the state through:

- Improving cyber infrastructure;
- Increasing the focus on cyber job-creating research activities; and
- Expanding cyber job-creating research activities toward producing more knowledge-based and high-technology cyber jobs in this state.

According to the legislative intent, Arkansas is home to national and global private sector companies that are considerable targets in the financial services, food and supply chain, and electric grid sectors. The Arkansas Cyber Initiative will be part of the newly formed American Cyber Alliance and will develop cyber capacity in Arkansas regarding innovation, workforce development, and intelligence and operations. The Arkansas Cyber Initiative will help mitigate cyber risks in Arkansas, develop educational best practices, provide enhanced threat assessment and response capabilities for public and private sectors in Arkansas, and advance opportunities for economic development in Arkansas.

HB 1944 – Concerning Blockchain Technology

Sponsored by Rep. Meeks

Sets legal definitions surrounding emerging blockchain technology.

The bill defines “blockchain technology” means a shared, immutable ledger that facilitates the process of recording one or more transactions and tracking one or more tangible or intangible assets in a business network. It further defines a “smart contract” as a business logic that runs on a blockchain, or a software program that stores rules on a shared and replicated ledger and uses the stored rules for:

- Negotiating the terms of a contract;
- Automatically verifying the contract; and
- Executing the terms of a contract.

Signatures, records, and contracts created via blockchain technology are to be considered electronic versions of their tangible counterparts.

Environmental Legislation

Air Quality and Pollution Control

SB 555 – Rules Regarding State Actions Following Establishment of Federal Emissions Guidelines

Sponsored by Sen. Ballinger

Creates a means to waive procedures for legislative review and approval of state plans when final emission guidelines are promulgated by the United States Environmental Protection Agency under § 111(d) of the Clean Air Act, 42 U.S.C. § 7411(d), for electric generating units when those emission guidelines are determined to not require any one or more of the following:

- Shifting electricity generation from one fuel type to another;
- Closing any fossil fuel-fired electric generating unit; or
- Imposing statewide greenhouse gas goals or other statewide greenhouse gas emission limitations.

The bill also revises the requirements under current law pertaining to a state plan to ensure consistency with the Clean Air Act and to avoid the imposition of a federal plan.

Emergency Management and Homeland Security

HB 1915 – Rules for Preauthorization of Open Burning Sites

Sponsored by Rep. Womack and Sen. Wallace

Provides that a county may seek preauthorization of open burning sites for vegetative storm debris from the Arkansas Department of Environmental Quality to accelerate the cleanup process in the event of a natural disaster.

Environmental Health Services

HB 1777 – Weatherization Assistance Program Reporting Standards

Sponsored by Rep. Love

Modifies current law concerning the Weatherization Assistance Program to require certain reporting standards.

The Arkansas Energy Office of the Arkansas Department of Environmental Quality must report the following to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor concerning the Weatherization Assistance Program:

- When the office applies to the United States Department of Energy for the funding for the Weatherization Assistance Program as described in the state plan;
- At the midyear point of the Weatherization Assistance Program to show the statistics relating to budgeting, enrollment, and other information relating to the Weatherization Assistance Program; and
- At the end of the year of the Weatherization Assistance Program to show the total impact of the Weatherization Assistance Program and to discuss the renewal application for the funding for the Weatherization Assistance Program as described in the state plan.

Hazardous Waste and Substance Management

HB 1213 – Transfer of Funds to Hazardous Substance Remedial Action Trust Fund

Sponsored by the House Joint Budget Committee

Authorizes the Department of Environmental Quality to request the Chief Fiscal Officer of the state to make a loan on his or her books in an amount not to exceed ten million dollars from the Budget Stabilization Trust Fund to the Hazardous Substance Remedial Action Trust Fund. Loan repayments must be made from time to time from any legal fund of the Arkansas Department of Environmental Quality and the entire amount of the loan must be repaid to the Budget Stabilization Trust Fund by June 30, 2023. By October 15, January 15, April 15, and July 15 of each fiscal year the Arkansas Department of Environmental Quality must report to Arkansas Legislative Council or Joint Budget Committee the status of hazardous waste cleanup efforts at the Trafalgar Road site in Bella Vista, Arkansas. The report must include:

- All funds expended by each quarter of the fiscal year;
- Source of funds expended;
- Estimated total of funds to be expended;
- Expected date for completion of cleanup; and
- All efforts of cost recovery from responsible parties.

Inland Water Resource Management and Conservation

SB 453 – Arkansas Waterways Commission Funding

Sponsored by Sen. Eads

Provides funding for the Arkansas waterways commission and for the development, improvement, and expansion of river transportation resources within the McClellan-Kerr Arkansas river navigation system.

The bill also establishes the Arkansas river navigation system fund.

Reorganization and Coordination

HB 1763 – Transformation and Efficiencies Act of 2019

Sponsored by Rep. Davis

Reduces the number of state agencies reporting to the Governor from 42 to 15 in order to minimize overlapping of authority and duplication of effort.

Among the agencies established by the law is the Department of Energy and Environment. The administrative functions of the following state entities were transferred to the Department of Energy and Environment by a cabinet-level transfer:

- The Advisory Committee on Petroleum Storage Tanks;
- The Arkansas Department of Environmental Quality, now to be known as the Division of Environmental Quality;
- The Arkansas Geological Survey;
- The Arkansas Pollution Control and Ecology Commission;
- The Liquefied Petroleum Gas Board;
- The Nutrient Water Quality Trading Advisory Panel; and
- The Oil and Gas Commission.

The Division of Environmental Quality now consists of the divisions transferred from the Arkansas Pollution Control and Ecology Commission as of July 1, 1971, and all other divisions, programs, and offices under the Arkansas Department of Environmental Quality as of June 30, 2019. All other departments, divisions, agencies, and commissions within this state must cooperate with the Division of Environmental Quality in fulfilling the Division of Environmental Quality's responsibilities as defined by current law.

All personnel of the Division of Environmental Quality will be employed by the Department of Energy and Environment and serve at the pleasure of the Secretary of the Department of Energy and Environment. This reorganization does not reduce any right which an employee in the Division of Environmental Quality has under any civil service or merit system.

HB 1967 – Environmental Compliance Resource Act

Sponsored by Rep. Watson

Establishes the Environmental Compliance Resource Act in order to modernize, simplify, and clarify the law ensuring local governments and other state agencies have adequate resources to address illegal dumps and other issues that affect the public health, safety, and welfare.

The bill repeals the Illegal Dump Eradication and Corrective Action Program Act and to transfer components of it to the Environmental Compliance Resource Act and the Arkansas Solid Waste Management Act.

Solid Waste

HB 1459 – Rules for Reviewing Solid Waste Management Districts

Sponsored by Reps. Hodges, Womack, Speaks and Sens. Ballinger, Irvin, and Flippo

Amends current law to allow regional solid waste management district boards to annually select on a random basis one-third of the total number of districts for a review of selected policies, procedures, and transactions to ensure compliance with applicable criteria.

HB 1902 – Used Tire Recycling and Accountability Act Amendments

Sponsored by Rep. Ladyman

Amends the Used Tire Recycling and Accountability Act to allow for paper documentation rather than electronic and to redefine “extra-large tire” to include wide-base or extra-wide single tires.

The bill also defines “operator” as a person or persons who requires individual judgment and may directly affect the proper operation at one or more of the following:

- A tire collection center;
- A tire processing facility;
- A tire generator facility; or
- A waste tire monofill.

The legislation defines “Operator” as a person who performs a function at a waste tire site, but it does not include a person who exclusively exercises general administrative supervision. “Owner” means a person who holds legal title to property where a tire collection center, tire processing facility, tire generator facility, waste tire monofill, waste tire site, or other waste tire facility exists.

Finally, based on data received from the electronic uniform used tire manifest system and quarterly reports, the following funding for reimbursement for processing, recycling, or disposing of used tires at the approved business plan rate may be available from the fund for used tire programs that are in compliance with all applicable requirements.

SB 377 – Concerning the Collection and Distribution of Solid Waste Disposal and Transportation Fees

Sponsored by Sen. Irvin

Establishes that before disbursing moneys collected from disposal fees to the regional solid waste management boards, the Division of Environmental Quality must deposit the following moneys into the following funds each fiscal year:

- \$150,000 into the Crime Information System Fund to be used exclusively for the scrap metal logbook program; and
- \$300,000 into the Arkansas Unpaved Roads Program Fund.

Water Quality and Pollution Control

HB 1709 – Establishing User Fees for Nutrient Water Quality Trading

Sponsored by Rep. Lundstrum

Adds language to existing law for the establishment of user fees for a nutrient water quality trading program to include fees for applying for approval of and generating nutrient water quality trades or offsets to comply with permit limits.

The fees must be based on a record calculating the reasonable costs to the Department of Environmental Quality of evaluating, implementing, and enforcing each nutrient water quality trading, credit, or offset program.

HB 1729 – Redefining Authority over Water, Wastewater, and Storm Water Systems

Sponsored by Reps. Love, Davis, and Sens. English, and Bond

Modifies Arkansas code such that the general powers of a public body have extended authority relating to the ownership and operation of a water system, a wastewater system, and a storm water system, rather than just “waterworks systems” as the law previously described.

SB 525 – Rules Regarding Reviewing Plumbing Plans

Sponsored by Sen. Hester and Rep. Dotson

Redefines “entity” as a city, town, sewerage district, water district, sewer association, water association, utility gas system, or county in reference to having an employee who is certified as a plumbing and natural gas inspector to perform plan reviews of plumbing plans.

An employee who performs a plan review has the responsibility to ensure that the plumbing plans meet plan meets state requirements, according to the legislation.

FLORIDA

Florida adopted 14 energy and environmental bills during the 2019 legislative session. Notably, Florida passed HB 591 exempting customer meter-derived data and billing information in increments of less than one billing cycle from public disclosure and inspection requirements. Like several other states, Florida also established a Blockchain Task Force to investigate how government services might benefit from its implementation with SB 1024.

Energy Legislation

Coal and Minerals

HB 767 – Mineral Rights-of-Entry Modifications

Sponsored by Agriculture and Natural Resources Appropriations Subcommittee, and Rep. Robinson

Releases the right of entry to any interest in phosphate, minerals, and metals, or any interest in petroleum, reserved for a local government, water management district, or other agency of the state, for any parcel of property that is or has ever been a contiguous tract of less than 20 acres in the aggregate under the same ownership.

Emergency Management and Homeland Security

HB 7011 – Emergency Planning Disclosure Exemptions

Sponsored by Oversight, Transparency, and Public Management Subcommittee

Saves from repeal the current exemption from public records disclosure for any information provided by individuals and businesses to the Division of Emergency Management for the purposes of being provided assistance with emergency planning.

Utilities

HB 591 – Exempting Disclosure of Certain Meter-derived Data and Billing Information

Sponsored by Energy and Utilities Subcommittee, Reps. Yarborough and Davis

Exempts from public disclosure and inspection requirements customer meter-derived data and billing information in increments of less than one billing cycle held by a utility owned or operated by a unit of local government.

The bill provides legislative findings as to the public necessity for the exemption and the balancing of public and private harm as required by the Florida Constitution. The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the legislature.

HB 327 – Exempting Certain Disclosures by Local Government Utilities

Sponsored by Oversight, Transparency, and Public Management Subcommittee, Energy and Utilities Subcommittee, Reps. Davis, and Yarborough

Creates a public meeting exemption for that portion of a meeting held by a local government utility that would reveal either:

- Information related to the security of a local government utility’s technology, processes, and practices designed to protect the utility’s networks, computers, programs, and data from attack, damage, or unauthorized access that, if disclosed, would facilitate the alteration, disclosure, or destruction of the data or information technology resources; or
- Information related to the security of a local government utility’s existing or proposed information technology systems or industrial control technology systems that, if disclosed, would facilitate unauthorized access to, and alteration or destruction of, the systems in a manner that would adversely impact the safe and reliable operations of the systems and the utility.

The bill requires that all portions of a local government utility meeting exempted by the bill be recorded and transcribed. These recordings and transcripts are exempt from disclosure as public records except to the extent that any portion of the recording or transcript is determined by a court of competent jurisdiction, after an in-camera review, to reveal nonexempt data.

The bill provides that the public meeting and public record exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the legislature. It also provides a statement of public necessity as required by the state constitution.

SB 796 – Requiring Public Utility Storm Protection Plans

Sponsored by Sen. Gruters

Requires each public utility to file, pursuant to Florida Public Service Commission (commission) rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period.

Each plan must explain the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. The commission is required to adopt rules to specify the elements that must be included in a utility’s filing. In reviewing a proposed transmission and distribution storm protection plan, the commission must consider the following:

- The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance;

- The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the utility’s service territory, including, but not limited to, flood zones and rural areas;
- The estimated costs and benefits to the utility and its customers of making the improvements proposed in the plan; and
- The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

If a utility-filed proposed plan contains all the elements required by commission rule, the commission must determine whether it is in the public interest to approve, approve with modification, or deny the proposed plan no later than 180 days after the utility filing of the plan.

At least every 3 years after approval of a utility’s plan, the utility must file for commission review an updated protection plan that addresses each element specified by commission rule. The commission must approve, modify and approve, or deny each updated plan pursuant to the criteria used for the initial plan.

The commission is required to conduct an annual proceeding to determine the utility’s prudently incurred plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause. After commission approval of a utility’s plan, proceeding with actions to implement the plan is not evidence of imprudence. If the commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility.

The annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility’s base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission.

Computer Technology and Digital Innovation

SB 1024 – Establishing the Florida Blockchain Task Force

Sponsored by the Senate Rules Committee

Establishes the Florida Blockchain Task Force with the intent to study the ways in which state, county, and municipal governments can benefit from a transition to a blockchain-based system for record-keeping, security, and service delivery and to develop and submit recommendations to the Governor and the legislature concerning the potential for implementation of blockchain-based systems that promote government efficiencies, better services for citizens, economic development, and safer cyber-secure interaction between government and the public.

Environmental Legislation

Coastal Zone Management

HR 1379/SR 1820 – Gulf of Mexico Range Complex

Sponsored by Reps. Rodrigues, Ponder / Sen. Hooper

Supports an indefinite extension of the restriction, specified in the Gulf of Mexico Energy Security Act of 2006, oil and gas leasing in all areas east of the Military Mission Line and an indefinite extension of the Act’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.

Emergency Management and Homeland Security

HB 7011 – Emergency Planning Disclosure Exemptions

Sponsored by Oversight, Transparency, and Public Management Subcommittee

Saves from repeal the current exemption from public records disclosure for any information provided by individuals and businesses to the Division of Emergency Management for the purposes of being provided assistance with emergency planning.

SR 1844 – Requesting a Disaster Relief Appropriations Package

Sen. Montford

Urges members of Congress to immediately pass a federal supplemental appropriations package for disaster relief and recovery to assist those attempting to rebuild their lives in the wake of Hurricane Michael.

Environmental Health Services

SB 7068 – Establishing M-CORES

Sponsored by the Appropriations Committee and Infrastructure and Security Committee

Creates the Multi-use Corridors of Regional Economic Significance (M-CORES) Program within the Florida Department of Transportation (FDOT), with the purpose of revitalizing rural communities, encouraging job creation, and providing regional connectivity, while leveraging technology, enhancing quality of life and public safety, and protecting the environment and natural resources. The program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure.

The bill sets out the intended benefits of the program and identifies three corridors comprising the program:

- Southwest-Central Florida Connector, extending from Collier County to Polk County;
- Suncoast Connector, extending from Citrus County to Jefferson County;
- Northern Turnpike Connector, extending from the north end of the Florida Turnpike northwest to the Suncoast Parkway.

M-CORES projects will be Turnpike projects and are subject to statutory economic and environmental feasibility criteria, as well as additional environmental and other evaluation requirements set out in the bill. Decisions on M-CORES corridor configuration and alignment must be determined in accordance with the FDOT's rules, policies, and procedures. To the greatest extent practical, the projects must be designed to minimize project construction within conservation lands.

FDOT must convene a task force for each corridor comprised of representatives from various stakeholders to evaluate and coordinate corridor analysis, environmental and land use impacts, and other pertinent impacts of the corridors. Each task force must issue a written report by October 1, 2020. To the maximum extent feasible, the bill requires project construction to begin no later than December 31, 2022, with projects open to traffic no later than December 31, 2030.

HB 617 – Flood Policy Notice

Sponsored by Insurance and Banking Subcommittee, Reps. Newton, and Joseph

Requires an insurer issuing a homeowner's insurance policy that does not provide for the coverage of flood must provide a prescribed statement informing the policyholder that their policy does not insure against losses caused by flood. Such statement must be provided to the policyholder at issuance and renewal.

Inland Water Resource Management and Conservation

HB 95 – C-51 Reservoir Project

Sponsored by State Affairs Committee, the Agriculture and Natural Resources Subcommittee, and Rep. Jacobs

Authorizes the South Florida Water Management District (SFWMD) to acquire any portion of the C-51 reservoir project not already committed to utilities for alternative water supply purposes.

The bill authorizes the SFWMD to acquire land near the C-51 reservoir project through the purchase or exchange of land owned by the SFWMD or state as necessary to implement any part of the project. Previously, these authorizations pertained only to Phase II of the project.

Further, the legislation requires the operation of Phase I of the C-51 reservoir project to be in accordance with any operation and maintenance agreement approved by the SFWMD. Water made available by the reservoir must be used for natural systems in addition to any permitted amounts for water supply. Water in the reservoir that is received from Lake Okeechobee may be made available to support consumptive use permits but only if such use is in accordance with the SFWMD's rules.

Finally, the bill authorizes Phase II of the C-51 reservoir project to be funded by appropriation in addition to the existing authorized funding sources.

SB 1666 – Modifying Rules Related to Long-term Vessel Storage

Sponsored by Rules Committee, Community Affairs, Environmental and Natural Resources, and Sen. Flores

Defines the term “long-term stored vessel” to mean a vessel which has remained anchored or moored outside of a public mooring field without supervision or control for at least 30 days out of a 60-day period. The Fish and Wildlife Conservation Commission (FWC) is required to conduct a study, contingent upon appropriation, on the impacts of long-term stored vessels on local communities and the state and to present the report to the Governor and legislature.

The bill also authorizes, upon federal approval, counties designated as rural areas of opportunity to create within their jurisdiction a “no-discharge zone” where treated and untreated sewage discharges are prohibited for specified vessels. The legislation requires vessel operators within a no-discharge zone to keep sewage discharges onboard for discharge at specified locations, and it imposes a civil penalty if an unlawful discharge is made in a no-discharge zone.

Reorganization and Coordination

HB 1121 – Allowing for the Continuance of CSOs

Sponsored by State Affairs Committee, Agriculture and Natural Resources Appropriations Committee and Rep. Altman

Removes the scheduled repeal of provisions governing citizen support organizations (CSOs) established under the Department of State, Department of Environmental Protection, and the Fish and Wildlife Conservation Commission, allowing the CSOs to continue operating and providing benefits to the respective departments.

The bill also removes the scheduled repeal date of the law authorizing the Florida Department of Agriculture and Consumer Services to establish direct support organizations (DSOs) to provide assistance, funding, and support to assist the department in furthering its goals.

Finally, the act requires the Department of Environmental Protection to submit a report to the President of the Senate and the Speaker of the House of Representatives by December 1, 2019, on financial transparency, accountability, and ethics of certain CSOs.

Solid Waste

HB 905 – Reclaimed Asphalt Use

Sponsored by the State Affairs Committee

Prohibits a local government from adopting standards or specifications that are contrary to the Department of Transportation's for permissible use of reclaimed asphalt pavement material in construction and provides that such material may not be considered solid waste.

GEORGIA

Georgia adopted 21 energy and environmental bills during the 2019 legislative session. This year, Georgia passed resolutions honoring its linemen with HR 622/SR 441 and its utility contractors with SR 70. Concerning renewable energy, SB 95 established that, as it relates to the terms and conditions of contracts for utility services, no contract for solar utility services or for wind utility services must be for a term in excess of 20 years.

Energy Legislation

Emergency Management and Homeland Security

HR 169 – Resolution Concerning the Emergency Management Association of Georgia

Sponsored by Reps. Collins, Hitchens, Gravley, Powell, and Jones

Commends the Emergency Management Association of Georgia and recognizes February 20, 2019, as Emergency Management Association Day at the state capitol.

Energy Efficiency

HR 460 – Recognizing Electric Vehicle Day

Sponsored by Reps. Holcomb, Jones, Cantrell, Wilensky

Recognizes March 7, 2019, as Electric Vehicle Day at the state capitol.

Natural Gas and Petroleum

SB 127 – Electronic Filing Requirement for Motor Fuel Distributors

Sponsored by Sens. Hufstetler, Albers, Orrock, and Black

Requires that documents used for determining the amount of tax imposed on motor fuel distributors must be filed electronically and authorizes the department of revenue commissioner to prescribe the way such reports are electronically filed.

Utilities

HR 182 – Granting Non-Exclusive Easements

Sponsored by Reps. Greene, Lumsden, Dunahoo, Werkheiser, Clark, and Pirkle

Authorizes the granting of non-exclusive easements for the construction, operation, and maintenance of facilities, utilities, roads, and ingress and egress in, on, over, under, upon, across, or through property owned by the state of Georgia in Barrow, Camden, Cobb, Floyd, Houston, and White Counties.

HR 622/SR 441 – Commending Efforts of Georgia’s Linemen

Sponsored by Reps. Parsons, Dollar, Smith, Martin, Holmes, and Dickey / Sens. Cowser, Brass, Ginn, Tippins, and Hill

Commends Georgia’s linemen for their efforts in keeping the power on and protecting public safety and recognizes April 8, 2019, as Georgia Lineman Appreciation Day.

SB 2 – Broadband Services Provided by Electric Membership Corporations

Sponsored by Sens. Gooch, Wilkinson, Harper, Hill, Kirk, and Albers

Authorizes electric membership corporations and their affiliates to provide broadband services.

The bill prohibits cross-subsidization between the provision of broadband services and an electric membership corporation’s natural gas activities or certain other electricity services activities. To prevent cross-subsidization between broadband services activities and gas activities and between broadband services activities and electricity services activities, any electric membership corporation with a broadband affiliate that provides retail broadband services must:

- Fully allocate all costs of electricity services activities and broadband services activities, including costs of any shared services, between electricity services activities and such broadband affiliate’s broadband services activities;
- Not charge any costs of electricity services activities or gas activities to the broadband services customers of the broadband affiliate;
- Not charge any costs of broadband services activities to the electricity services customers of such electric membership corporation or to the gas activities customers of its gas affiliate; and
- Not use below-market loans or below-market funding from programs that are not intended to support the deployment of broadband facilities or broadband services in order to support broadband facilities or to provide broadband services unless the electric membership corporation or its broadband affiliate imputes the difference between market rates and the below-market loans or below-market funding into the costs of its broadband facilities and broadband services.

An electric membership corporation that has a broadband affiliate that provides retail broadband services must:

- Not condition the receipt of electricity services upon, nor provide more favorable terms for electricity services in exchange for, persons that receive broadband services from the electric membership corporation or its broadband affiliate;
- Have a duty to provide access to the poles, ducts, conduits, and easements of such electric membership corporation to all communications service providers on rates, terms, and conditions that are just, reasonable, and nondiscriminatory;
- Not provide its broadband affiliate or any communications service provider any information obtained from other communications service providers in the pole attachment request and approval process, including without limitation the requested locations for pole attachments, the locations of the customers to be served, or any identifying information regarding such customers;

- When such electric membership corporation is assisting a customer or potential customer seeking to initiate electricity services and there is any inquiry or discussion regarding the availability of retail broadband services, in the course of the same discussion or transaction in which such assistance is being provided, inform such customer or potential customer of other providers offering broadband services in such customer’s area based on any service map of a provider of broadband services or similar resource maintained by any department of the state or federal government and inform such customer or potential customer that broadband services may be obtained from such electric membership corporation’s broadband affiliate or such other providers of broadband services. Such information must be provided only with regard to other providers of broadband services that have notified the electric membership corporation’s broadband affiliate, in writing and in a commercially reasonable manner, that such provider of broadband services is able and willing to provide broadband services to customers located within all or a portion of the electric membership corporation’s designated electricity service territory; and
- Develop and maintain a cost allocation manual, to be approved by the commission, describing the electric membership corporation’s methods of cost allocation and such other information and policies reasonably required to ensure compliance with this bill.

Finally, the bill establishes that the public service commission has jurisdiction over each broadband affiliate and each electric membership corporation that has a broadband affiliate that provides retail broadband services to enforce compliance within the provisions of this act. The commission must provide for an expedited adjudication of any complaint as to a failure to comply with this legislation and may engage an administrative law judge for purposes of such adjudication.

SB 95 – Contract Term Modifications for Utility Services

Sponsored by Sens. Robertson, Kirk, Brass, Albers, Miller, and Unterman

Establishes that, as it relates to the terms and conditions of contracts for utility services, no contract for solar utility services or for wind utility services must be for a term in excess of 20 years.

SR 70 – Recognizing the Efforts of the Georgia Utility Contractors Association

Sponsored by Sen. Tippins

Commends the Georgia Utility Contractors Association for its efforts in promoting safe and responsible installation of underground utilities in the state of Georgia and recognize February 5, 2019, as Georgia Utility Contractors Association Legislative Awareness Day at the state capitol.

Environmental Legislation

Coastal Zone Management

HB 445 – Establishing Boundary for Dynamic Dune Fields and Redefining Terms

Sponsored by Reps. Hogan, Sainz, Williams, Clark, Gullett, and Washburn

Modifies the current definition of a “dynamic dune field” to remove stable sand dunes from the definition and establishes that the landward boundary of the dynamic dune field, as determined by the department of natural resources, must be the first occurrence of either the seaward most portion of a structure existing on July 1, 1979, or the landward most line that is 25 feet landward of the landward toe of the most landward sand dune, or 25 feet landward of the crest of a serviceable shoreline stabilization activity. In the absence of any of the aforesaid, the line must be 25 feet landward of the ordinary high-water mark, except for property owned by the state, in which case the line must be 100 feet landward of the ordinary high-water mark.

Any permit for minor activity may be issued by the commissioner based on the recommendations of staff, past committee actions, and the results of public comments. The commissioner may refer the application to the committee to decide on permits for minor activities that, in his or her judgment, should receive broader consideration. A

committee member may choose to have the full committee decide on permit applications for minor activities that the member feels should receive broader consideration. “Minor activity” is also redefined by the bill to mean an activity such as the construction or installation of decks, patios, or porches or the alteration of native landscaping, so long as such construction, installation, or alteration, when combined with other structures on the subject parcel or portion thereof, does not impact more than a total of one-third of the subject parcel or portion thereof that is subject to the jurisdiction of this part; or the construction or installation of elevated crosswalks providing access across sand dunes and shoreline stabilization activities.

HB 501 – Authorizing Certain Mariculture Activities and Amending Marsh Land Restrictions

Sponsored by Reps. Petrea, Hogan, Stephens, Williams, Sainz, and Gilliard

Authorizes the board of natural resources to promulgate rules and regulations necessary to develop and cultivate the shellfish industry in Georgia to include, but not be limited to, size, possession, and creel limits; season criteria; siting criteria, including lease size for mariculture activities; methods for issuing leases, including number issued per year, lease values and terms, and the importation of molluscan shellfish, shellfish tissues, or shells into this state to include place or region of origin, minimum and maximum seed size, ploidy, and type.

The law states that when promulgating rules and regulations, the board must consider public health as the primary consideration. The department of natural resources may offer leases of state intertidal water bottoms within an approved growing area for the exclusive rights to harvest wild or maricultured shellfish through public competitive bidding. Any person desiring to lease state intertidal water bottoms must make an application in writing to the department in the manner and time as described by the department in the competitive bid advertisement. Such lease must include terms and conditions as prescribed by the department.

The bill also amends current marsh land law so that the building of a single private dock by the owners of up to four adjoining lots, each of which is riparian and would qualify for an exemption as provided by current law, for the exclusive noncommercial use of such owners or their invitees and constructed as a single walkway on pilings above the marsh grass not obstructing tidal flow and in a size to be determined by the department taking into consideration the number of adjoining lots utilizing the dock. The exemption provided applies only if each of the owners of such adjoining lots has entered into a binding covenant that runs with the land, in favor of the state, which covenant prohibits the building of any future private dock on his or her lot unless the dock exempted pursuant to this paragraph is removed or converted to a single-family private dock which would qualify for an exemption as provided under the prior law.

HR 686 – Commending Coastal Scientists of Georgia

Sponsored by Reps. Dreyer, Clark, Buckner, Jones, Kausche, and Evans

Commends the scientists of the University of Georgia Skidaway Institute of Oceanography, ocean researchers at the University of Georgia, Georgia Institute of Technology, Georgia Southern University, and Savannah State University, the University of Georgia Sea Grant and Marine Extension Service, and the Georgia Climate Project, led by scientists at Emory University, for their continued scientific research on the present-day threats to the natural environment of the Georgia Coast and urge these scientists to communicate their findings to the members of the House of Representatives so this House will be able to shape new laws that will protect the natural environment of the Georgia Coast for the next 50 years.

Emergency Management and Homeland Security

HR 169 – Resolution Concerning the Emergency Management Association of Georgia

Sponsored by Reps. Collins, Hitchens, Gravley, Powell, and Jones

Commends the Emergency Management Association of Georgia and recognizes February 20, 2019, as Emergency Management Association Day at the state capitol.

Hazardous Waste and Substance Management

HB 223 – Exceptions to Notification of Hazardous Waste Spills

Sponsored by Reps. Dickey, McCall, England, Dubnik, and Smith

Provides definitions oil or hazardous material spills or releases as well as an exception to notification of spills or releases and related matters.

‘Animal waste,’ as defined by the law, means feces, urine, or other excrement, digestive emissions, urea, or similar substances emitted by animals, including any form of livestock, poultry, or fish. This term includes animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material typically mixed or commingled with animal waste on a farm.

Notification of the Environmental Protection Division of a spill or release and development of procedures to notify other governmental agencies of a spill or release do not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or Georgia Pesticide Control Act, or both if done so in a manner consistent with its labeling. Air emissions from animal waste, including decomposing animal waste does not require notification either, according to the law.

HB 225 – Clarifying Terms Related to Transporting Hazardous Materials

Sponsored by Reps. Rich, Rogers, Jasperse, Gullett, Mathis, and Gaines

Amends current code relating to the safe transport of hazardous materials.

The bill clarifies that “commissioner” means the commissioner of public safety, and “department” means the department of public safety. The bill further updates the reference date to federal regulations regarding the safe operation of motor vehicles from January 1, 2018 to January 1, 2019.

HB 458 – Prohibiting the Use of PFAS in Class B Fire-fighting Foams

Sponsored by Reps. Gullett, Burns, Barr, Smith, Moore, and Cooke

States that on and after January 1, 2020, no person, fire department, state department, agency, board, bureau, office, commission, public corporation, or authority; county, municipal corporation, school district, or other political subdivision of this state may discharge or otherwise use class B fire-fighting foam that contains intentionally added per- and polyfluoroalkyl substances (PFAS) chemicals unless:

- Such discharge or other use occurs in fire prevention or in response to an emergency fire-fighting operation; or
- Such discharge or other use is for training or testing purposes which occurs at a facility that has implemented containment, treatment, and disposal measures to prevent uncontrolled releases of such class B fire-fighting foam into the environment.

Inland Water Resource Management and Conservation

HB 201 – Banning Certain Vessels from Anchoring Within Estuaries

Sponsored by Reps. Hogan, Petrea, Williams Jr., Mathiak, Williams, and Smith

Authorizes the Board of Natural Resources to promulgate rules and regulations regarding anchoring certain vessels within estuarine areas of the state and to establish anchorage areas.

The bill declares it an unlawful act for any person to dock or anchor at night any vessel within the estuarine areas of this state unless it is in an anchorage area established by the department and in compliance with all rules and regulations adopted by the board pursuant to the act or at an eligible facility. Nothing in the amendment may prohibit short-term anchoring for fishing or similar activities, nor may it prohibit the owner of a vessel from docking at a private recreational dock or non-eligible facility so long as such vessel is not utilized as a live-aboard vessel.

HB 314 – Vessel Titling Amendments

Sponsored by Reps. Stephens, Hawkins, Morris, Barr, Tanner, and Pruett

Updates current vessel licensing and titling requirements such that no person may operate or give permission for the operation of any vessel on the waters of this state unless the vessel is titled in accordance with the law.

The bill also requires that the department of natural resources must maintain electronic records of title and furnish a physical certificate of title to the owner or lienholder upon request.

Land Management and Conservation

HB 446 – Credit Transferability Modifications for Timber Producers

Sponsored by Reps. Knight, Harrell, Rutledge, and Kelley

Amends current law relating to income tax credits for timber producers incurring losses from Hurricane Michael to clarify that certain income tax credits that have been transferred must not be refundable to the transferee nor be eligible for transfer.

HB 493 – Allowing for Contractors to Implement Land Disturbance Activity Ordinances

Sponsored by Reps. Tanner, Harrell, Stephens, Powell, and Lumsden

Provides that counties and municipalities can contract with qualified personnel to implement land disturbance activity ordinances.

Previously the law stated that counties and municipalities were only allowed to implement ordinances via employees rather than contractors.

HB 512 – Establishing the Agricultural Commodity Commission for Propane and Fertilizer Usage Amendments

Sponsored by Watson, Holmes, McCall, Mathis, Dickey, and Rhodes

Establishes an Agricultural Commodity Commission for Propane.

The commission is authorized to issue, administer, and enforce marketing orders. Whenever the commission has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of this article with respect to propane, it must give due notice of and an opportunity for a public hearing thereon. Notice of any hearing called for such purpose must be given by the commission by publishing a notice of such hearing for a period of not less than five days in a newspaper of general circulation published in the City of Atlanta and in such other newspapers as the commission may prescribe. No such public hearing must be held prior to five days after the last day of such period of publication. The commission must also mail a copy or communicate electronically such notice of hearing and a copy of such proposed marketing order or proposed amendments to all dealers and distributors of propane whose names and addresses are on file with the commission.

The department of agriculture commissioner is also authorized to promulgate and adopt rules and regulations relative to fertilizers derived from industrial by-products which may include, but not be limited to, application rates, proper conditions for application, application record keeping and retention, development and use of site-specific nutrient management plans, and storage and containment in or on lands where fertilizers are applied.

The commissioner is further authorized to share such information and consult with other agencies such as, but not limited to, the Environmental Protection Division of the Department of Natural Resources and the United States Department of Agriculture's Natural Resources Conservation Service.

HR 509/SR 408 – Recognizing the Importance of Georgia's Forests

Sponsored by Reps. Corbett, Burns, Smith, Buckner, McCall, and Holmes / Sens. Harper, Wilkinson, Walker, Ginn, Sims, and Miller

Recognizes the environmental, economic, and social benefits that Georgia's sustainable forest products supply chain provides to all 10 million Georgians in honor of the United Nations International Day of Forests on March 21.

Solid Waste

HB 220 – Solid Waste Management Disposal Surcharges

Sponsored by Reps. Rogers, LaRiccia, Reeves, and Lott

Reduces the amount of and extends the sunset date for certain solid waste disposal surcharges, tire disposal fees, and fees for hazardous waste management.

Effective from July 1, 2020, until June 30, 2022, the bill states that owners or operators of any solid waste disposal facility other than an inert waste landfill as defined in regulations promulgated by the board or a private industry solid waste disposal facility must assess and collect on behalf of the division from each disposer of waste a surcharge of 51 cents per ton of solid waste disposed.

Effective from July 31, 2020, until June 30, 2022, a fee is imposed upon the retail sale of all new replacement 40 tires in this state of 38 cents per tire sold. Fee requirements for hazardous waste management and hazardous substance reporting are prohibited until July 1, 2022 unless fees are reimposed by the general assembly of Georgia.

KENTUCKY

Kentucky adopted 22 energy and environmental bills during the 2019 legislative session. Notably, it requested a delay in the decommissioning of Paradise Fossil Plant Unit 3 with HR 91/SR 90. With HB 165 the Energy and Environment Cabinet or an air pollution control district is allowed to establish an air quality fee structure that may include a permit or registration fee in addition to the collection of a per-ton emissions-based assessment.

Energy Legislation

Coal and Minerals

HR 91/SR 90 – Requesting a Delay in Voting to Shutter Fossil Fuel Plant

Sponsored by Rep. Prunty / Sen. Humphries

Encourages the Tennessee Valley Authority board of directors to delay its consideration of and voting on closing the Paradise Fossil Plant Unit 3 in Muhlenberg County until the TVA board membership is fully appointed and a new TVA President and Chief Executive Officer has been retained.

HR 175 / SR 159 – Urging the Signing of the Appalachian Sky Executive Order

Sponsored by Rep. Koenig / Sen. Smith

Urges the President of the United States, Donald J. Trump, to sign the Appalachian Sky Executive Order.

The resolution states that experts estimate that the Appalachian Sky initiative will create 15,000 aerospace-related jobs in the region and create over 18,000 indirect and induced jobs, employing thousands of Kentuckians from those areas hardest hit by the decline in the coal industry.

Emergency Management and Homeland Security

HB 196 – Emergency Response Commission Quorum Requirements

Sponsored by Rep. Moore

Amends current law to change the quorum requirement for the Emergency Response Commission to a simple majority of currently appointed members.

HB 393 – Homeland Security Risk Response

Sponsored by Rep. Rothenburger

Requires the Kentucky Office of Homeland Security to create the Commonwealth Activity Taxonomy System (CATS) Committee to develop and oversee a system of evaluating special events to determine, plan, mitigate, and respond to risks and threats to the Commonwealth.

Energy Efficiency

SB 164 – Repeals Compulsory Enrollment in the Kentucky Energy Efficiency Program

Sponsored by Sen. Smith

Repeals a state law in which every board of education is required to enroll in the Kentucky Energy Efficiency Program.

Natural Gas and Petroleum

HB 199 – Establishing the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program

Sponsored by Rep. Gooch

Establishes the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Program with the purpose of:

- Reclaiming abandoned storage tanks;
- Properly plugging and abandoning eligible wells; and
- Addressing imminent threats to human health, safety, or the environment posed by oil and gas facilities located in the Commonwealth.

Reclamation of abandoned storage tank facilities and eligible wells under the program include:

- Removing necessary well and tank infrastructure;
- Proper plugging and abandonment of eligible wells;
- Proper abandonment of tanks posing an imminent threat to human health, safety, or the environment;
- Implementation of best management practices at sites associated with eligible wells or abandoned storage tank facilities; or
- Removing primary and secondary sources of contamination of the land, air, and water.

The bill changes the name of the Kentucky Abandoned Storage Tank Reclamation Fund to the Kentucky Abandoned Storage Tank and Orphan Well Reclamation Fund and establishes the purposes of the fund and allowable expenditures.

The bill also authorizes the Energy and Environment Cabinet to contract with private parties for remediation or reclamation projects and to take the same actions to address improperly abandoned wells as currently allowed for abandoned storage tank facilities.

The legislation provides for the forfeiture of equipment or products remaining at an orphan well or abandoned storage tank facility site and allows the Energy and Environment Cabinet or its agents to include the forfeited equipment or products as part of its reclamation or remediation project.

It further allows the Energy and Environment Cabinet to promulgate administrative regulations to provide further detail as to the prioritization of wells and abandoned storage tank facilities to be reclaimed or remediated and replaces the bond schedule for shallow wells with a bonding formula of two dollars for every foot of true vertical well depth for all shallow wells bonded after the effective date of the act.

HB 352 – Amendments to Law Regarding Hauling Unrefined Petroleum Products

Sponsored by Rep. Meade, Upchurch, Hoover, Turner

Defines “extended weight unrefined petroleum products haul road system” as those state-maintained highways over which 50,000 tons or more of unrefined petroleum products are transported in the year 2022, and update annually thereafter and requires the secretary of the Transportation Cabinet to designate the roads in the system on an annual basis.

The bill also allows motor vehicles, using approved axle configurations, to transport unrefined petroleum products on the system at a maximum weight of 120,000 pounds, with a gross weight tolerance of five percent. Further, the bill sets the fee for an annual decal for approved motor vehicles at \$1,250 and directs revenues for decal be credited to the road fund.

Utilities

HB 339 – Modifying Rights of Cities to Furnish Water and Light to Other Cities

Sponsored by Rep. Meredith

Declares that any city that owns and operates its own water or light plant may acquire a franchise to furnish water and light to any other city, in the same manner that any private corporation or individual may acquire such a franchise and may contract with any other city to furnish water and light to that other city.

The contracts may be entered into by the legislative bodies of the cities, and the legislative bodies are given full power to so contract regarding the furnishing of water or light. Each contract must be specific in its terms. Any city may pay to any other city a rental for water and light from year to year, or for a term of years, according to the law.

The bill further establishes that any city may construct, lay, or maintain mains, pipes, lines, or other necessary apparatus to convey water or light from any city that owns and operates its own water or light plant, or may contract with the other city to do these things, and the other city must have the same power. For this purpose, any city may acquire rights and rights-of-way in the same manner that private corporations or individuals may acquire rights and rights-of-way and may do any other things in carrying into effect the provisions of this measure that any individual or corporation may do.

SB 100 – Modifications to the Definitions and Rules Regarding Net Metering

Sponsored by Sens. Smith and Castlen

Increases the maximum capacity for an eligible electric generating facility to 45 kilowatts and to redefines “net metering” to mean the difference between the dollar value of all electricity generated by an eligible customer-generator that is fed back to the grid over a billing period and the dollar value of all electricity consumed by the eligible customer-generator over the same billing period and priced using the applicable tariff of the retail electric supplier.

The bill also establishes that a retail electric supplier serving an eligible customer-generator must compensate that customer for all electricity produced by the customer’s eligible electric generating facility that flows to the retail electric supplier, as measured by the standard kilowatt-hour metering prescribed in the act. The rate to be used for such compensation must be set by the commission using the ratemaking processes under this chapter during a proceeding initiated by a retail electric supplier or generation and transmission cooperative on behalf of one or more retail electric suppliers.

Each billing period, compensation provided to an eligible customer-generator must be in the form of a dollar-denominated bill credit the bill states. If an eligible customer generator's bill credit exceeds the amount to be billed to the customer in a billing period, the amount of the credit in excess of the customer's bill must carry forward to the customer's next bill. Excess bill credits must not be transferable between customers or premises.

If an eligible customer-generator closes his or her account, no cash refund for accumulated credits may be paid. Using the ratemaking process provided by the act, each retail electric supplier is entitled to implement rates to recover from its eligible customer generators all costs necessary to serve its eligible customer-generators, including but not limited to fixed and demand-based costs, without regard for the rate structure for customers who are not eligible customer-generators.

For an eligible electric generating facility in service prior to the effective date of the initial net metering order by the commission, the net metering tariff provisions in place when the eligible customer-generator began taking net metering service, including the 1:1 kilowatt-hour denominated energy credit provided for electricity fed into the grid, must remain in effect at those premises for a 25 year period, regardless of whether the premises are sold or conveyed during that 25 year period. For any eligible customer-generator, each net metering contract or tariff under which the customer takes service must be identical, with respect to energy rates, rate structure, and monthly charges, to the contract or tariff to which the same customer would be assigned if the customer were not an eligible customer-generator, according to the legislation.

SR 255 – Recognizing National Lineman Appreciation Day

Sponsored by Sen. Turner

Recognizes National Lineman Appreciation Day on April 18, 2019, and doing so in honor of Danny H. Hamilton, a lineman from eastern Kentucky.

Computer Technology and Digital Innovation

HR 171 – Requesting a Study on Blockchain Technology

Sponsored by Reps. McCoy

Urges a comprehensive study of and subsequent plan to deal with the growing blockchain technology.

Among the areas the resolution lists as having the potential to utilize blockchain technology is the energy industry.

Environmental Legislation

Air Quality and Pollution Control

HB 165 – Relating to Fees for Air Quality

Sponsored by Rep. Gooch

Allows the Energy and Environment Cabinet or an air pollution control district to establish an air quality fee structure that may include a permit or registration fee in addition to the collection of a per-ton emissions-based assessment.

The bill also removes the requirements relating to the determination of fee assessments for particulate matter.

Emergency Management and Homeland Security

HB 196 – Emergency Response Commission Quorum Requirements

Sponsored by Rep. Moore

Amends current law to change the quorum requirement for the Emergency Response Commission to a simple majority of currently appointed members.

HB 393 – Homeland Security Risk Response

Sponsored by Rep. Rothenburger

Requires the Kentucky Office of Homeland Security to create the Commonwealth Activity Taxonomy System (CATS) Committee to develop and oversee a system of evaluating special events to determine, plan, mitigate, and respond to risks and threats to the Commonwealth.

HR 108 – Requesting Emergency Funds for a Water Crisis

Sponsored by Reps. Harris, Hatton, and Scott

Urges Governor Matthew Bevin to declare a state of emergency in Martin County, Kentucky, and to make emergency funds available to resolve the county's water crisis.

Environmental Health Services

HB 274 – Defining the Powers and Duties of Conservation Officers

Sponsored by Reps. Fugate, Hale, Blanton, Elliott, Santoro, Sheldon, Sims Jr., and Turner

Amends current law to define a “conservation officer” and provides powers and duties for conservation officers.

“Conservation officer” means any member of the Kentucky Department of Fish and Wildlife Resources Law Enforcement Division who possesses the powers of a peace officer. According to the bill, each conservation officer is individually vested with the powers of a peace officer and must have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables, and police officers in their respective jurisdictions, and must possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment and within the scope of their duties. Any warrant of arrest may be executed by any officer of the department.

SB 256 – Amending Process for Environmental Surcharge Hearings

Sponsored by Sen. Smith

Amends current law to only require environmental surcharge hearings upon request of a party.

SB 28 – Establishing Notification Timeline for Environmental Emergencies and Landfill Violations

Sponsored by Sen. Alvarado

Establishes that within seven days of declaring that an environmental emergency exists that requires implementation of a contingency plan established by prior law, the cabinet must send a copy of the declaration of emergency to the county/judge executive of the county or the chief executive officer of the urban-county government within which the environmental emergency exists.

The bill also declares that within seven days of issuing a notice of violation to a contained landfill operating as a municipal solid waste disposal facility for noncompliance with a condition of its permit issued by the Division of Waste Management where the noncompliance has off-site impacts, the cabinet must send a copy of the notice of violation to the county/judge executive of the county or the chief executive officer of the urban-county government within which the contained landfill is located.

Land Management and Conservation

SB 124 – Extending Review Time for Agricultural District Petitions

Sponsored by Sens. Hornback and Parrett

Extends the time in which the Soil and Water District Board of Supervisors may review a petition application for the formation of an agricultural district from 60 to 100 days before submitting it to the Soil and Water Conservation Commission.

The bill also extends the time in which the commission may review and certify the application from 60 to 100 days. Finally, the bill updates all references to the United States Soil Conservation Service to the Natural Resources Conservation Service.

Reorganization and Coordination

HB 177 – Modifying the Geographic Information Advisory Council

Sponsored by Rep. Koenig

Adds a member of the Kentucky Association of Mapping Professionals to the Geographic Information Advisory Council while removing the secretary of the Economic Development Cabinet from the council.

The bill also changes the name of the Kentucky Association of Land Surveyors to the Kentucky Association of Professional Surveyors.

SB 153 – State Board of Agriculture Expansion

Sponsored by Sens. Hornback, Givens, and Girdler

Increases the size of the State Board of Agriculture from 14 members to 18 members.

Solid Waste

HB 354 – Major Recycling Project Tax Credit Modifications and Requirements

Sponsored by Reps. Rudy, Bechler, and Sheldon

Modifies the tax credit related to a major recycling project to:

- Allow a business with at least 400 certain full-time employees to qualify;
- Allow a tax credit equal to 25 percent of the installed cost of the recycling equipment;
- Limit the period for the credit to be taken to 30 years; and
- Require that the credit claimed in any taxable year cannot exceed 75 percent of the income tax liability which would be otherwise due for that taxable year.

The bill also clarifies the combined reporting requirements to:

- Amend the definition of tax haven to exclude any jurisdiction that has entered into an income tax treaty with the United States;
- Amend the definition of unitary business to exclude any corporation that is regulated with respect to rates charged to customers for electric or gas services;
- Allow the appointment of a managerial member for administrative purposes related to the combined report.

Further, the act clarifies who is a “toller” and what documentation is required to become a toller related to the exemption for energy and energy-producing fuels. According to the law, a toller is a person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property it is incorporated into or becomes the product of the manufacturing or industrial processing activity is a toller.

For periods on or after July 1, 2018, the costs of the tangible personal property must be excluded from the toller’s cost of production at a plant facility with tolling operations in place as of July 1, 2018. For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property must be excluded from the toller’s cost of production if the toller:

- Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;
- Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;
- Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;
- Demonstrates one or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and
- Provides information to the department upon request that documents fulfillment of the requirements listed above and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility.

SB 28 – Establishing Notification Timeline for Environmental Emergencies and Landfill Violations

Sponsored by Sen. Alvarado

Establishes that within seven days of declaring that an environmental emergency exists that requires implementation of a contingency plan established by prior law, the cabinet must send a copy of the declaration of emergency to the county/judge executive of the county or the chief executive officer of the urban-county government within which the environmental emergency exists.

The bill also declares that within seven days of issuing a notice of violation to a contained landfill operating as a municipal solid waste disposal facility for noncompliance with a condition of its permit issued by the Division of Waste Management where the noncompliance has off-site impacts, the cabinet must send a copy of the notice of violation to the county/judge executive of the county or the chief executive officer of the urban-county government within which the contained landfill is located.

Water Quality and Pollution Control

SB 32 – Defining and Regulating Water Well Driller’s Assistants

Sponsored by Sen. Humphries

Requires water well drillers and water well driller’s assistants to obtain a valid certificate before working on a water well. The bill defines “water well driller’s assistant” as a person who is qualified to engage in the drilling, alteration, or repair of a water well under the supervision of a certified water well driller who provided the required affidavit of supervision.

The bill also allows for the water well driller’s assistant to work under the liability insurance and surety bond of the supervising certified water well driller but is prohibited from certifying records required to be kept by the supervising certified water well driller.

SR 82 – Supporting Work to Solve Martin County Water District Issues

Sponsored by Sen. Webb

Supports the Kentucky Public Service Commission and the Energy and Environment Cabinet working together to find solutions to the various problems faced by the Martin County Water District and supports a review of the progress made to implement the 20/20 water plan initiated by Governor Paul Patton.

The resolution also states that the state senate supports “empowering the Kentucky Public Service Commission to undertake measures that are prudent and necessary to prevent Kentucky’s small community public drinking water systems from insolvency and failure to serve the public. This power may include allowing the Kentucky Public Service Commission to assert greater control over the utility prior to petitioning for receivership.”

LOUISIANA

Louisiana adopted 45 energy and environmental bills during the 2019 legislative session. Among the notable bills is HB 163 concerning the responsibility of performing requirements of the Louisiana Geologic Sequestration of Carbon Dioxide Act falling only on storage operators. SB 46 seeks to bolster the state’s cybersecurity measures by Creates the Louisiana Cybersecurity Information Sharing Act.

Energy Legislation

Coal and Minerals

HB 183 – Levying an Annual Reclamation Fee on Surface Mining Operations

Sponsored by Rep. Cox

Adds an annual reclamation fee in the amount of \$6 for each acre of land included in an approved mine permit area.

SB 242 – Providing for a Continuing Security Interest Clause in Mineral Leases

Sponsored by Sen. Allain

Authorizes the State Mineral and Energy Board to include in any lease entered into by the state, any state agency, or any political subdivision after July 31, 2019, a clause which grants a continuing security interest in and to all as-extracted collateral attributable to, produced, or to be produced, from the leased premises or from lands pooled or unitized therewith, as security for the prompt and complete payment and performance of the lessee’s obligation to pay royalties or other sums of money that may become due under the lease, as contemplated by the Uniform Commercial Code.

Natural Gas and Petroleum

HB 163 – Responsible Persons for Actions Related to CO₂ Sequestration

Sponsored by Rep. Crews

Provides that the responsibility of performing requirements of the Louisiana Geologic Sequestration of Carbon Dioxide Act falls only on storage operators.

Specifically, the bill states that unless a person is the owner or operator of a facility or activity, the owner, shipper, or generator of carbon dioxide is not responsible for performing the actions required by the commissioner of conservation relative to carbon sequestration.

HCR 69 – Recognizing Liquified Natural Gas Day

Sponsored by Rep. Bishop

Recognizes Tuesday, May 14, 2019, as the seventh annual Liquified Natural Gas Day at the Louisiana state capitol.

HR 90 – Commending Kid Energy for Their Efforts

Sponsored by Rep. Bishop

Commends Kid Energy on their efforts to educate children on safety and awareness in the petroleum industry.

HR 91/SR 89 – Designating Oil and Natural Gas Industry Day

Sponsored by Rep. Bishop / Sen. Chabert

Designates May 1, 2019, as Oil and Natural Gas Industry Day at the state capitol.

SB 180 – Oilfield Site Emergency Response Funding Approval Requirements

Sponsored by Sen. Allain

Requires approval by the Oilfield Site Restoration Commission for costs associated with response to any emergency unless directed by the commission not to expend monies in the fund pursuant to this bill.

The Department of Natural Resources (DNR) is required to seek recovery from the responsible party any monies disbursed and spent from the fund for an emergency within six months from the initial expenditure, and the assistant secretary of DNR must notify the commission of an emergency.

The bill further requires the commission to hold a meeting within 90 days after the emergency to approve the expenditure of certain monies. Balance requirements are also provided by the bill such that when the balance in the fund equals or exceeds \$14 million dollars, the oilfield site restoration fees on oil and gas will not be collected or required to be paid by the responsible party. When the balance in the fund has fallen below \$10 million dollars, the fees will be collected or required to be paid by the responsible party.

HR 32 / SR 19 – Commending ExxonMobil

Sponsored by Reps. Jordan and Smith / Sen. Barrow

Designates Monday, April 15, 2019, as ExxonMobil Day at the Louisiana state capitol and commends ExxonMobil for 110 years of partnership and progress with Louisiana.

Reorganization and Coordination

SB 200 – Providing for A + B Bid Methods in Public Works Contracts

Sponsored by Sen. Cortez

Creates a pilot program to authorize local governmental subdivisions and political subdivisions to use A+B bidding method to determine the lowest responsive bidder on a contract for public works.

The pilot is limited to 15 projects subject to prior approval of the House and Senate committees on transportation, highways, and public works. If the committees approve a project, the owner is required to submit in writing to the chairmen of committees, the name and address of the lowest responsive bidder awarded the contract, together with the bid values of the A+B components.

Further, the bill states that upon completion and acceptance of the project, the owner is required to submit in writing to the chairmen of the committees a project report that includes the final project cost and an evaluation of whether or not contract times were reduced, costs were acceptable, and quality was maintained by use of the A+B bid method.

Utilities

HB 221 – Jurisdiction to Collect Municipal Utility Debts

Sponsored by Rep. Stefanski

Expands the current jurisdiction of mayor's courts to allow for the collection of municipal utility debts.

The bill provides that this jurisdiction must be concurrent with the district court's where the amount in question does not exceed \$5,000. If the amount in question exceeds the jurisdictional limits of the mayor's court, it requires the action to be transferred to a court of proper jurisdiction.

The legislation further requires the court to appoint a lawyer to serve as a court magistrate to hear all civil utility debt suits and authorizes the magistrate to impose court costs against the debtor not to exceed \$35. This act does not apply to Jefferson Parish.

HB 7 – Establishing the Crime of Communication Interference

Sponsored by Rep. Dwight

Creates the crime of communication interference and defines it as the willful or malicious interference with any communication operated or controlled by the state, used or intended to be used by the military or civil defense functions, or controlled by any legal entity created for the purpose of or engaged in generating, transmitting, providing, and distributing utilities or utility services to the public.

The bill also provides an exception to prosecution if the crime is committed by member-owned electric cooperatives, municipally owned electric service providers, privately owned utilities, or investor-owned utilities regulated by the Louisiana Public Service Commission or the city council of New Orleans when engaged in the course and scope of their business activities.

HCR 28 – Establishing Diversity in Energy Day

Sponsored by Rep. Gaines

Designates April 15, 2019, as Diversity in Energy Day at the state capitol.

HR 42/SR 36 – Recognizing Linemen Appreciation Day

Sponsored by Rep. Anders / Sen. Smith

Recognizes April 18, 2019, as Lineman Appreciation Day in Louisiana.

Computer Technology and Digital Innovation

HB 455 – Defining Criteria for Autonomous Commercial Vehicles

Sponsored by Rep. Landry

Provides that autonomous commercial motor vehicles may operate in this state if in compliance with certain defined criteria, including:

- Capability of operating in compliance with applicable federal law and traffic and motor vehicle laws of this state;
- Proper registration and titling;
- Certification in accordance with federal motor vehicle safety standards;
- Capability of achieving a minimal risk conditions if a failure occurs rendering the vehicle unable to perform dynamic driving tasks; and
- Coverage by motor vehicle liability coverage in an amount not less than \$2 million.

The law specifies that prior to commencing the operation of a commercial motor vehicle without a conventional driver present in the cab, a written statement must be provided to the Department of Transportation and Development certifying that the vehicle meets the previous requirements.

HCR 67 – Cybersecurity Study Request

Sponsored by Rep. Foil

Requests the Department of Economic Development to study cybersecurity issues faced by businesses in compliance with the Cybersecurity Framework Standards promulgated by the National Institute of Standards and Technology.

SB 46 – The Louisiana Cybersecurity Information Sharing Act

Sponsored by Sen. Peacock

Creates the Louisiana Cybersecurity Information Sharing Act and provides that the purpose of this act is to provide a framework for sharing cybersecurity information under Louisiana law that is consistent with federal law.

The bill establishes that the following entities are authorized, in addition to those entities identified in federal law, to receive cyber threat indicators and defensive measure information through electronic mail transmission:

- The Department of Justice, office of the attorney general, Louisiana Bureau of Investigation;
- The Department of Public Safety and Corrections, office of state police, Louisiana State Analytical and Fusion Exchange; and
- The Governor’s Office of Homeland Security and Emergency Preparedness.

SCR 123 – Creating Task Force to Test and Strengthen Infrastructure Against Cyber Threats

Sponsored by Sen. Martiny

Creates the Task Force on Cyber Incident and Response to develop and plan a tabletop exercise that tests and strengthens the infrastructure required to combat cyber threats.

The bill requires that a written report of findings and recommendations be submitted to the legislature no later than February 1, 2020.

Environmental Legislation

Coastal Zone Management

HB 142 – Oyster Harvesting Modifications

Sponsored by Rep. Leopold

Authorizes additional means of harvesting oysters on the oyster seed grounds under the oyster seed ground vessel permit.

The bill allows for the use of tongs or harvesting by hand under the cost of a permit for use of a single scraper, and further provides that the permit granted for a double scraper also permits the use of any legal means of harvest.

HCR 30 – Requesting the Continued Support of the Gulf Hypoxia Action Plan

Sponsored by Rep. Zeringue

Urges and requests continued support for the efforts by the state of Louisiana and others in the Mississippi River Basin to work together toward achieving the goals of the Gulf Hypoxia Action Plan and a reduction of the hypoxic zone off the state’s coast.

SCR 116 – Requesting Department of Interior to Adopt Policy Relating to the Gulf of Mexico Shallow Water Province

Sponsored by Sen. Chabert

Requests the U. S. Department of Interior to adopt a public policy that encourages the avoidance of stranding assets in the Gulf of Mexico Shallow Water Province in order to ensure maximum benefit for the nation.

SCR 27 – Approving the Integrated Coastal Protection Plan

Sponsored by Sen. Allain

Approves the annual state integrated coastal protection plan for FY 2020, as adopted by the Coastal Protection and Restoration Authority Board.

Emergency Management and Homeland Security

SCR 55/HCR 51 – Establishing Resiliency Week

Sponsored by Sen. Morrish

Designates the week of September 1 through September 7, 2019, as Resiliency Week in Louisiana.

The week is meant to highlight effective pre-disaster mitigation, the efforts and first responders in an emergency, and encourage Louisiana communities to build resiliently and develop long-range mitigation strategies for protecting people and property, particularly in a state that has widespread low elevations and is threatened by hurricanes nearly every year.

Environmental Health Services

HR 145 – Requesting a Study on the Environmental Effects of Evolving 5G Technology

Sponsored by Rep. Abramson

Requests the Department of Environmental Quality in conjunction with the Louisiana Department of Health to study the effects of evolving 5G technology and report its findings to the House Committee on Natural Resources and Environment and the House Committee on Health and Welfare no later than 60 days prior to the convening of the 2020 regular session of the legislature.

The resolution deems a study is necessary to examine the advantages and risks associated with 5G technology with a focus on the environmental impact and potential related effects.

HR 231 – Requesting a Study of a Voluntary Compliance Audit Program Relating to the Department of Environmental Quality

Sponsored by Rep. Bishop

Urges and requests the secretary of the Department of Environmental Quality to study the establishment of a voluntary compliance audit program for industries regulated by the department.

SR 156 – Assessing Impacts of New Railroad Alignment

Sponsored by Sen. Carter

Requests the Department of Transportation and Development and the Department of Environmental Quality to collaborate with the Rio Grande Pacific Corporation, the New Orleans and Gulf Coast Railway Company, the Federal Railroad Administration, the executive office of the U.S. Department of Transportation, the United Transportation Union, and the Surface Transportation Board to conduct a thorough environmental review that accounts for the magnitude of adverse, quantifiable public health, safety, and welfare impacts associated with any new railroad alignment in Gretna, Louisiana.

Hazardous Waste and Substance Management

SB 106 – Authorizing Liens Against Immovable Property

Sponsored by Sen. Lambert

Authorizes liens against certain immovable property for monies expended from the Hazardous Waste Site Cleanup Fund.

The bill provides that such liens will have priority in rank over all other privileges, liens, encumbrances, or other security interests affecting the property, unless those privileges, liens, encumbrances, or other security interests are filed before the lien filed as provided by new law, in which case they will have priority over the state lien, but only to the extent of the fair market value that the property had prior to closure, assessment, or remedial action by the state.

Inland Water Resource Management and Conservation

HB 558 – Floodplain Evaluation and Management Commission Membership Modifications

Sponsored by Rep. Hodges

Modifies present law by adding a member from the Association of Levee Boards of Louisiana, the commissioner of agriculture and forestry or his designee, and the chairman of the Louisiana Soil and Water Conservation Commission or his designee to the Floodplain Evaluation and Management Commission.

HCR 42 – Wetland Assimilation Projects Study Request

Sponsored by Rep. Zeringue

Urges and requests the Department of Environmental Quality to study the overall impacts of wetland assimilation projects prior to approval of additional such projects.

HCR 90 – Expanding the Comite River Diversion Canal Project Task Force

Sponsored by Rep. Hodges

Expands the Comite River Diversion Canal Project Task Force to include the Amite River Basin District and to study and make recommendations on actions necessary to complete construction of the Comite River Diversion Project and mitigate flooding caused by the Comite and Amite Rivers.

HCR 91 – Urging Funding of the Darlington Reservoir

Sponsored by Rep. Hodges

Urges and requests the division of administration, office of community development to consider funding the Darlington Reservoir.

SB 201 – Repealing the Washington Parish Reservoir District

Sponsored by Sen. Mizell

Repeals the Washington Parish Reservoir District and directs the transfer of any remaining property and excess funds to the Department of Culture, Recreation and Tourism in support of the Bogue Chitto State Park.

SB 231 – Expanding the Capital Area Groundwater Conservation District

Sponsored by Sen. Lambert

Adds Ascension Parish to the Capital Area Groundwater Conservation District.

SB 233 – Increasing the Contract Limit Related to Drainage Projects

Sponsored by Sen. Smith

Increases “contract limit” that requires public bid for public work related to drainage projects done by regular maintenance employees in St. Charles Parish.

The legislation establishes that the term “contract limit” is equal to the sum of \$250,000 per project, including labor, materials, and equipment as per the rates in the latest edition of the Associated Equipment Dealers Rental Rate Book and administrative overhead not to exceed 15 percent.

It further provides that beginning February 1, 2021, and annually on February 1st of each subsequent year, the office of facility planning and control within the division of administration must adjust the “contract limit” by an amount not to exceed the annual percentage increase in the Consumer Price Index in the preceding year.

SCR 10 – Re-establishing the Lake Providence Watershed Council

Sponsored by Sen. Thompson

Re-establishes the Lake Providence Watershed Council.

The resolution establishes that the members of the Lake Providence Watershed Council must meet as often as necessary to deliberate and produce a report that will identify, review, and evaluate management strategies to facilitate the goal of improving the aquatic habitat of Lake Providence and to provide recommendations for the optimal management and protection of the resources within the Lake Providence watershed, including but not limited to the following:

- The study of impacts and potential impacts to water quality, excess nutrient, and sediment run-off management, shoreline modification management, watershed conservation measures, and innovative habitat restoration methodology;
- Coordination of federal, state, and local efforts to improve and protect water quality; surface water resource management and protection policies; recommendations for the optimal management and protection of the natural resources in the Lake Providence watershed; and
- Recommended changes to current procedures and practices to make the management and protection of the natural resources in the Lake Providence watershed more efficient, comprehensive, and sustainable.

SCR 114 – Re-establishes the Lower Pearl River Basin Task Force

Sponsored by Sen. Hewitt

Re-establishes the Lower Pearl River Basin task force to study the conditions, needs, issues, and funding relative to the flood protection and preservation of the Lower Pearl River Basin and to recommend any action or legislation that the commission deems necessary or appropriate.

The bill requires that the task force submit a report and recommendations with suggestions for proposed legislation to the legislative committees on transportation and natural resources by February 1, 2020.

SCR 131/HR 307 – Requesting Adequate Funding to Deepen the Mississippi River Ship Channel

Sponsored by Sen. Chabert / Rep. Leger

Memorializes Congress to provide adequate funding to the United States Army Corps of Engineers for the completion of the proposed project to deepen the Mississippi River Ship Channel to fifty feet.

SCR 71 – Determining Fund Availability for Flood Control Projects

Sponsored by Sen. White

Requests the Coastal Protection and Restoration Authority and the Department of Transportation and Development to determine what monies, state or federal, are available for flood control projects in the coastal zone or coastal area, and in the area outside the coastal area.

SCR 93 – Coordinating Involvement in the National Flood Insurance Program

Sponsored by Sen. Morrish

Requests the Coastal Protection and Restoration Authority to form a subcommittee to coordinate the state's involvement in the National Flood Insurance Program.

Land Management and Conservation

HB 183 – Levying an Annual Reclamation Fee on Surface Mining Operations

Sponsored by Rep. Cox

Adds an annual reclamation fee in the amount of \$6 for each acre of land included in an approved mine permit area.

Reorganization and Coordination

HR 320 – Deepwater Horizon Litigation Funds Allocation

Sponsored by Rep. Morris

Urges and requests the Department of Transportation and Development to dedicate the economic damage proceeds from the Deepwater Horizon litigation allocated to the On-System Bridge Program for replacement and rehabilitation program for highway bridges on any federal-aid system over waterways, other topographical barriers, other highways, and railroads and for replacement and rehabilitation of highway bridges on state highways that are ineligible for federal highway funding assistance to Northeast Louisiana.

Water Quality and Pollution Control

HB 545 – Disposing of Produced Waters

Sponsored by Rep. Morris

Clarifies that an owner, producer, or operator is authorized to dispose or reinject produced saltwaters into the productive interval of the Blossom Formation.

HCR 25 – Requesting the Study of Sewer Systems

Sponsored by Rep. Hollis

Urges and requests the Department of Environmental Quality, in consultation with the Louisiana Public Service Commission, the Louisiana Municipal Association, the Louisiana Rural Water Association, and other interested state and local governmental entities, to study the feasibility of providing funding for the consolidation of municipal wastewater treatment systems into larger, regionalized systems.

HCR 31 – Requesting Groundwater Concerns Declaration

Sponsored by Rep. Marcelle

Urges and requests the commissioner of conservation to study and outline the requirements, and make recommendations as to the necessity of an area of groundwater concern or a critical area of groundwater concern declaration in the Baton Rouge area and to submit a report of the study to the governor and oversight committees no later than Feb. 15, 2020.

SB 170 – Creating the Rural Water Infrastructure Committee

Sponsored by Sen. Thompson

Creates the Rural Water Infrastructure Committee within the office of the governor for the purpose of providing advice and guidance to the governor on all matters relative to rural water systems in Louisiana.

The bill requires the committee to advise and make recommendations to the governor on the following:

- Establishing funding criteria for rural water systems;
- Establishing a process to hold noncompliant water systems accountable including legislative audits and mandatory management training;
- Increasing inspection and enforcement of rural water systems by state agencies;
- Establishing a system for the review of engineering proposals for infrastructure upgrades to rural water systems;
- Developing financial incentives for rural water systems to consolidate when deemed appropriate; and
- Developing recommendations for legislative action relative to rural water systems.

The committee is required to submit a written report to the governor by March first of each year relative to the progress, challenges, and recommendations concerning policy and possible legislation relative to rural water systems.

SCR 51 – Establishing a Task Force on Lead-Free Water

Sponsored by Sen. Morrell

Creates the Louisiana Task Force on Lead-Free Water in order to study the problem of lead contamination in water systems.

The bill states that the task force must study current law, policy, and efforts in Louisiana and other states to eliminate lead contamination from water systems, work with local governments to ensure the transition from lead pipes to safe alternatives, establish a timeline for such upgrades, and recommend any action or legislation that the commission deems necessary or appropriate.

The task force must report its findings and recommendations, with suggestions for proposed legislation, if any, to the legislature no later than 60 days prior to the convening of the 2021 regular session of the legislature.

MARYLAND

Maryland adopted 49 energy and environmental bills during the 2019 legislative session. Of interest, SB 516 increases the state's Renewable Energy Portfolio Standard (RPS) from 25 percent by 2020 to 50 percent by 2030 and makes other related changes. HB 1255 established the Zero-Emission Vehicle School Bus Transition Grant Program in order to provide local municipalities with funding for electric school buses and related infrastructure.

Energy Legislation

Alternative Energy Development

HB 586 – Lockout Tag Requirements for Solar Photovoltaic Systems

Sponsored by Del. Wilson

Requires each company that installs solar photovoltaic systems to install a lockout tag at each residential installation at the time of installation.

SB 516 – Clean Energy Jobs Requirements

Sponsored by Sen. Feldman

Increases the state's Renewable Energy Portfolio Standard (RPS) from 25 percent by 2020 to 50 percent by 2030 and makes other related changes.

The expired Tier 2 of RPS is reestablished for two years, in 2019 and 2020, and a total of \$15.0 million is transferred from the Strategic Energy Investment Fund for specified purposes. An existing study being conducted by the Power Plant Research Program (PPRP) is modified to include additional topics and a supplemental study on a 100 percent RPS goal. Separately, PPRP must also conduct a related study on nuclear energy, according to the bill.

SB 573 – Energy Storage Pilot Project Act

Sponsored by Sen. Feldman

Requires the Public Service Commission (PSC) to establish an Energy Storage Pilot Program by June 1, 2019 with various program implementation and evaluation steps being met within specified time frames.

The PSC must evaluate the program and issue an interim report to the general assembly by July 1, 2024, and a final report by December 31, 2026. The pilot program may not preclude any other investment by a public service company in energy storage, and the termination of the pilot program may not affect the cost recovery by an investor-owned electric company for the lifetime of an energy storage project, according to the bill.

HB 683/SB 520 – Solar Pilot Program Extension and Related Matters

Sponsored by Del. Clippinger / Sen. Kramer

Extends the Community Solar Energy Generating Systems Pilot Program through December 31, 2024.

A related reporting requirement for the Public Service Commission (PSC) is delayed three years until July 1, 2022, according to the bill. An existing requirement that PSC limit the pilot program in such a way that it may conduct a meaningful study is modified to include annual, increasing, capacity limits for each program category.

Finally, the bill also specifies that a community solar energy generating system may have an unlimited number of subscribers.

Coal and Minerals

HB 36/SB 54 – Requiring Reporting and Remediating Surface Mining Issue

Sponsored by Del. Wivell / The Senate Education, Health, and Environmental Affairs Committee

Requires a surface mining permittee to permanently replace a failed water supply (that is within a zone of dewatering influence) within 45 days of learning about a specified water supply failure.

The bill also codifies current regulations authorizing a permittee to seek reimbursement from an affected property owner for the cost of replacing a water supply if it is determined that the permittee's dewatering activity is not the proximate cause of the water supply failure and requiring that a permit holder, upon discovery of a sudden subsidence of the surface of the land within the zone of dewatering influence, must immediately implement appropriate safety measures to protect public health and safety.

Finally, the bill clarifies that the current law requirement for the Maryland Department of the Environment (MDE) to provide an opportunity for a contested case hearing may not be construed to stay the requirement to permanently replace a water supply or implement appropriate safety measures.

Energy Efficiency

HB 1246 – Clean Cars Act of 2019

Sponsored by Del. Fraser-Hidalgo

Expands the existing qualified plug-in electric vehicle excise tax credit by:

- Increasing to \$6.0 million the total amount of credits that the Motor Vehicle Administration can award for fiscal 2020;
- Extending eligibility to qualified fuel cell electric vehicles; and
- Altering the value of the credit to up to \$3,000.

The bill also expands the membership, responsibilities, and reporting requirements of the Maryland Electric Vehicle Infrastructure Council to include a focus on fuel cell electric and zero emission vehicles.

SB 70 – Repealing Law Concerning Hybrid Vehicles

Sponsored by the Senate Judicial Proceedings Committee

Repeals certain provisions of the law authorizing certain qualified hybrid vehicles to use a high occupancy vehicle (HOV) lane along a certain highway regardless of the number of passengers in the vehicle.

HB 1255 – Establishing the Zero-Emission Vehicle School Bus Transition Grant Program

Sponsored by Del. Fraser-Hidalgo

Establishes the Zero-Emission Vehicle School Bus Transition Grant Program to provide grants to county boards of education and entities that contract with county board providing transportation services to purchase zero-emission school buses, install charging infrastructure, and develop plans for transitioning to the use of zero-emission vehicles.

SB 52 – Reporting Modifications for the Strategic Energy Investment Program

Sponsored by the Senate Finance Committee

Eliminates a requirement that the Maryland Energy Administration (MEA) develop a plan every three years for expenditures under the Strategic Energy Investment Program.

The bill further requires specified expenditure plans to be developed by December 31, 2019, with specified public meetings held during the development of the plans and requires that information on the status of current programs and expenditures supported by the Strategic Energy Investment Fund, and possible or expected program initiatives and changes, be included in an existing annual report.

SB 53 – Energy Performance Contract Provisions

Sponsored by the Senate Finance Committee

Declares the Department of General Services rather than the Maryland Energy Administration is responsible for reviewing requests for proposals for energy performance contracts (EPCs) prior to their issuance and for reviewing the proposed EPCs prior to their approval by the Board of Public Works.

Natural Gas and Petroleum

SB 1031 – Funding Allocation for Oil Transferred into the State

Sponsored by Sen. Peters

Extends the current fee of eight cents per barrel assessed on oil transferred into the state until July 1, 2021.

The bill declares that beginning July 1, 2021, the fee is five cents per barrel. Until July 1, 2021, 7.75 cents of the per barrel fee are credited to the Maryland Oil Disaster Containment, Clean-up and Contingency Fund (Oil Fund) and 0.25 cents are credited to the Oil Contaminated Site Environmental Cleanup Fund (Reimbursement Fund).

Owners of heating oil tanks are authorized to continue to apply for assistance from the Reimbursement Fund through June 30, 2021. In fiscal 2020 and 2021 only, funds from the Oil Fund may be used to pay costs associated with the purposes of the Reimbursement Fund.

Utilities

HB 106 – Environmental Trust Fund Surcharge Extension

Sponsored by the House Environment and Transportation Committee

Extends the environmental surcharge on electrical energy distributed to retail electric customers that generates revenue for the Environmental Trust Fund (ETF) through the fiscal year 2030.

HB 1105 – Prohibiting Certain Influence over Investor-Owned Electric Companies

Sponsored by Del. Miller

Prohibits a person from acquiring, directly or indirectly, the power to exercise substantial influence over the policies or actions of an investor-owned electric company (IOU) if the person would become an affiliate of each IOU in the state as a result of the acquisition.

The bill specifies the following conditions under which a person is considered to have acquired such power to exercise substantial influence:

- After any acquisition of voting interests, directly or indirectly owns, controls, or has the right to vote, or direct the voting of, at least 20 percent of the voting interests of the investor-owned electric company or an entity that owns or controls the investor-owned electric company;
- The person has the right to designate at least 20 percent of the board of directors or other governing body of the investor-owned electric company or an entity that owns or controls the investor-owned electric company; or

- The person is found by the commission, directly or indirectly, or through one or more intermediaries, to have substantial influence over the policies or actions of an investor-owned electric company.

The Public Service Commission may adopt regulations to implement the bill.

HB 1189/SB 425 – Establishing the Critical Medical Needs Program

Sponsored by Del. Carey / Sen. Benson

Establishes the Critical Medical Needs (CMN) Program in the Office of Home Energy Programs (OHEP) within the Department of Human Services (DHS). The purpose of the CMN program is to reduce barriers to the energy assistance application process for “critical medically vulnerable individuals” and their households in obtaining state and federal financial assistance for their electric, gas, or other energy source bills so that their service continues or is restored.

HB 221 – Master Meters Task Force Modifications

Sponsored by Prince George’s County Delegation

Extends both the Task Force on the Use of Master Meters for Utility Services in Prince George’s County by one year and the deadline for the Task Force to report its findings and recommendations to the Governor and the Prince George’s County Delegation to the general assembly by one year to December 31, 2019.

HB 325 – Establishing an Indirect Customer Assistance Program

Sponsored by the Montgomery County and Prince George’s County Delegation

Authorizes the Washington Suburban Sanitary Commission (WSSC) to establish an Indirect Customer Assistance Program to provide financial assistance to eligible indirect customers for water and sewer service.

The bill defines an indirect customer as an individual who receives water or sewer service or both from WSSC but is not billed by WSSC. If established, WSSC must specify income eligibility standards and a process for indirect customers to receive financial assistance. These standards must be applied uniformly throughout the sanitary district. The bill also adds a provision that requires that the Customer Assistance Program and the Indirect Customer Assistance Program be funded from WSSC revenues.

SB 512 – Establishing Utility Procedures During a Government Shutdown

Sponsored by Sen. Ellis

Provides that a public service company may not terminate electric or gas service to an eligible residential customer for nonpayment on a day that a government shutdown is in effect and for seven days after the government shutdown has ended if the customer contacts the public service company before the date of termination to provide verification that the customer is an employee of the federal, state, or local government affected by the government shutdown and enter into a payment plan to pay any outstanding amount on the customer’s account after the government shutdown ends.

According to the law, an “Eligible residential customer” is defined as a residential electric or gas customer employed by the federal or state government or a local government in the state and involuntarily furloughed from work without pay because of a government shutdown, regardless of whether the employee is required to report to work during the furlough.

The Public Service Commission may adopt regulations to implement the bill.

SB 517 – Establishing Customer Choice Websites for Utilities

Sponsored by Sens. Feldman and Hershey

Requires the Public Service Commission (PSC) to establish residential customer choice shopping websites for electricity and natural gas, each of which must include specified related information and links to other resources.

The bill states that the PSC must also add to specified educational information related to electric customer choice on its website. It is the intent of the general assembly that PSC fully implement the bill, revamp the customer education section on its website, and establish the two residential customer choice shopping websites by October 1, 2020.

SB 634 – Telecommunications Provisions for Electric Cooperatives

Sponsored by Sen. Eckardt and Hershey

Authorizes an electric cooperative to construct, maintain, operate or allow others to construct, maintain, or operate specified facilities that furnish telecommunications services, broadband Internet access, or related services in certain areas, subject to specified notification requirements.

To ensure that electric customers do not subsidize the cost of broadband services, the bill states that an electric cooperative must properly allocate costs incurred under the bill between electricity-related services and broadband services.

The act must be construed to apply retroactively and must be applied to and interpreted to affect all real property, rights-of-way, and easements held by an electric cooperative on and after the bill's effective date.

Computer Technology and Digital Innovation

SB 432 – Revising the Cyber Warrior Diversity Program

Sponsored by Sen. Nathan-Pulliam

Adds the University of Maryland Baltimore County (UMBC) Training Centers located in the state to the Cyber Warrior Diversity Program (CWDP) and allows the centers to be eligible for specified grants.

The act also changes the distribution of the \$2.5 million mandated for the program, to include distributions to UMBC Training Centers as specified. Finally, the bill changes the annual reporting date for the number of students enrolled in each CWDP from November 1 to December 15.

Environmental Legislation

Air Quality and Pollution Control

HB 1160 – Establishing the Breathe Easy East Baltimore Pilot Program

Sponsored by Del. Lierman

Establishing the Breathe Easy East Baltimore Pilot Program in the Baltimore City Health Department to provide and study the effects of asthma remediation services on eligible households.

The bill requires the department, by July 1, 2020, to select eligible households to participate and provide them with remediation services such as cleaning, education, and structural interventions, and the department is required report its findings and recommendations to the Governor and the general assembly by December 1, 2024.

HB 277/SB 249 – Regional Transportation and Climate Protection Act of 2019

Sponsored by Del. Korman / Sen. Lam

Authorizes the Governor to include the state as a full participant in any regional governmental initiative, agreement, or compact that limits or reduces greenhouse gas emissions from the transportation sector.

However, the state may only withdraw from such an initiative, agreement, or compact with statutory approval from the general assembly. The bill also establishes reporting requirements for the Maryland Department of the Environment (MDE) and the Maryland Department of Transportation (MDOT). MDE and MDOT must report to the general assembly on the status of any regional governmental initiative, agreement, or compact that limits or reduces greenhouse gases from the transportation sector.

Coastal Zone Management

HB 1427 – Coastal Flooding Planning and Mitigation Amendments

Sponsored by Del. Stein

Limits the applicability of provisions established by prior law governing compliance of specified state and local projects with Coast Smart siting and design criteria to specified state and local capital projects.

The bill also delays the implementation date of the Coast Smart siting and design criteria that are modified and made more broadly applicable, from July 1, 2019, to July 1, 2020. The amendments further delay the deadline for specified local jurisdictions to develop a plan to address nuisance flooding, from July 1, 2019, to October 1, 2020, and requires the Maryland Department of Planning, in consultation with specified agencies, to develop and publish guidelines to assist the local jurisdictions in establishing nuisance flooding baselines.

HB 28/SB 939 – Shellfish Nursery Operations Provisions

Sponsored by Del. Clark / Sen. Klausmeier

Establishes that a pump, a pipe, or any other equipment attached to a pier that is associated with a permitted shellfish nursery operation is not a “nonwater-dependent project” for the purpose of wetlands license and permit requirements.

The bill specifies that, as long as installing such equipment (for the purpose of cultivating shellfish seed in a permitted shellfish nursery) does not require increasing the length, width, or channelward encroachment of the pier, then a person does not need to first obtain a tidal wetlands license or permit from the Board of Public Works (BPW) or the Maryland Department of the Environment (MDE) and such activity is a lawful use of private wetlands.

The legislation states that if such a project does require increasing the length, width, or channelward encroachment of the pier, a license or permit must be obtained, but the project is not subject to the more stringent requirements related to a nonwater-dependent project.

SB 7 – Regulating the Usage of Commercial Finfish Gear

Sponsored by the Education, Health, and Environmental Affairs Committee

Repeals the June 30, 2019 termination provision for provisions governing the regulation and use of commercial finfish trotlines.

The bill also establishes a commercial blue and flathead catfish finfish trotline license and authorizes the Department of Natural Resources to adopt regulations authorizing the use of a monofilament gill net to catch fish.

SB 10 – Licensing and Regulation for Oysters and Clams

Sponsored by the Education, Health, and Environmental Affairs Committee

Repeals license requirements in state law for certain commercial activity (harvesting, shipping, selling, and landing) relating to oysters and clams, which are duplicative of other state law provisions.

The provisions being repealed:

- Prohibit a person from catching oysters or clams for commercial purposes in the waters of the state unless the person first obtains a license (and require DNR to require an applicant for an oyster license to give the applicant’s address and telephone number);
- Require any person desiring to catch hard-shell clams by rake in the waters of Worcester County to apply to DNR for a license (and to provide specified information and certification to DNR);
- Require a person (other than a person selling their own catch) to obtain a license before engaging in the business of shipping or selling hard-shell clams taken from the waters of the state; and

- Require a person in charge of any boat or vessel rigged for catching surf clams or ocean quahogs to obtain a license from DNR before catching any surf clams in the waters of the state or landing any surf clams or ocean quahogs in the state.

The bill also clarifies a provision allowing a person to catch hard-shell clams with a handscape, shinnecock rake, or hydraulic dredge in the waters of Worcester County to instead allow a person to catch hard-shell clams with those types of gear in the state waters of the Atlantic Ocean.

Emergency Management and Homeland Security

HB 428 / SB 269 – Funding Allocation for the Comprehensive Flood Management Grant Program

Sponsored by Del. Watson / Sen. Hester

Expands the policy and purposes of provisions of state law regarding flood control and watershed management to include infrastructure repairs, watershed restoration, and emergency protection work associated with a flood event.

The bill authorizes the Maryland Department of the Environment, under its existing comprehensive flood management grant program, to award grants to subdivisions that have incurred at least \$1 million in infrastructure damage by a flood event that occurred on or after January 1, 2009, as specified.

Finally, the bill requires the Governor to include specified amounts of funding for the comprehensive flood management grant program in the annual state budget in fiscal 2021 through 2023.

Environmental Health Services

HB 1166 – Authorizing Fee Imposition for Disposable Bags

Sponsored by the House Howard County Delegation Committee

Authorizes Howard County to impose, by law, a fee on a store for the use of disposable bags as part of a retail sale of products.

According to the bill, the fee may not exceed 5 cents for each disposable bag used. The county may only use fee revenue collected pursuant to the bill for an environmental purpose, including the establishment of a program to provide reusable bags to individuals in the county or the implementation, administration, and enforcement of the fee.

HB 1353 – Controlling Nuisance Insects

Sponsored by the Environment and Transportation Committee

Authorizes the Secretary of Agriculture to implement a program to use bacillus thuringiensis israelensis to control or eliminate nuisance insects in the state.

The secretary may carry out a project under the program if the county or municipality in which the nuisance insects are located agrees to pay 50 percent of the costs. The matching funds must be paid into a newly established Nuisance Insects Fund. The bill also repeals provisions that authorize the Department of Natural Resources to implement a program, in conjunction with the Maryland Department of Agriculture, to control the spread of black flies in the state.

HB 50 – Establishing the Maryland Produce Safety Program

Sponsored by the Environment and Transportation Committee

Establishes a Maryland Produce Safety Program in the Maryland Department of Agriculture, which must conform with federal standards for growing, harvesting, packing, and holding produce for human consumption.

SB 467 – Establishing the Mel Noland Fellowship Program

Sponsored by Sen. King

Establishes the Mel Noland Fellowship Program within the Department of Natural Resources (DNR) to support students seeking careers in fields relating to natural resources.

The Mel Noland Woodlands Incentive Fund is renamed and its uses are expanded to include funding the fellowship program. Beginning in fiscal 2021, the Governor must appropriate \$50,000 annually to the fund and DNR must direct \$50,000 annually from the fund to the fellowship program. According to the bill, DNR and a managing organization must select two fellows and support the students in their matriculation in a natural resources field at an institution of higher education annually. Each fellow must receive an annual stipend of \$20,000 from the fund.

HB 652/SB 471 – Limiting the Usage of Certain Antimicrobial Drugs in Agriculture

Sponsored by Del. Love / Sen. Pinsky

Prohibits the administration of a medically important antimicrobial drug, in feed or water, to cattle, swine, or poultry unless ordered by a licensed veterinarian through a medically important antimicrobial drug prescription or a veterinary feed directive.

The bill also limits the conditions under which a medically important antimicrobial drug may be administered for prophylaxis by defining the term “elevated risk” (also a currently undefined term). Under existing law, a medically important antimicrobial drug may be administered to cattle, swine, or poultry if, in the professional judgment of a licensed veterinarian, the drug is necessary for prophylaxis to address an elevated risk of contraction of a particular disease or infection.

The bill defines “elevated risk” as a risk that is significantly higher than that present under normal or standard operating conditions and does not include a risk typically or frequently present under normal or standard operating conditions. “Prophylaxis” is defined as the prevention of disease or infection in the absence of documented clinical signs of disease or infection.

The bill also limits the duration for which a medically important antimicrobial drug may be administered to cattle, swine, or poultry for the purpose of prophylaxis to 21 days, without extension, unless federal label directions require a longer period of use.

Hazardous Waste and Substance Management

HB 1233 – Reducing Lead Risk in Housing

Sponsored by Del. Lewis

Redefines elevated blood lead level (EBL) as it applies to specified provisions of law that initiate case management, notification, and lead risk reduction requirements.

The Maryland Department of the Environment (MDE) must adopt regulations for conducting environmental investigations to determine lead hazards, as specified, and include a summary of the results of any environmental investigation conducted pursuant to the bill in its annual report on statewide childhood blood lead testing. The bill also modifies provisions regarding when an affected property owner is required to satisfy the modified risk reduction standard.

Inland Water Resource Management and Conservation

HB 1100/SB 585 – Modifications to the State Board of Waterworks and Waste Systems Operators

Sponsored by Speaker of the House

Extends the termination date of the State Board of Waterworks and Waste Systems Operators by 10 years to July 1, 2031, and requires a preliminary sunset evaluation of the board by December 15, 2028.

The bill also changes the board's current authorization to set fees, and instead requires the board to set reasonable fees to cover the board's actual direct and indirect regulatory costs.

HB 1114/SB 671 – Sunset Extension for State Board of Well Drillers

Sponsored by Speaker of the House / Sen. Miller

Extends the termination date of the State Board of Well Drillers by 10 years to July 1, 2031, and requires a preliminary sunset evaluation of the board by December 15, 2028.

The bill also requires the board to set license fees for the issuance and renewal of licenses at levels sufficient to cover actual direct and indirect costs of regulating the well drilling industry.

HB 1410 – Upper Potomac River Commission Pension Plans

Sponsored by Del. Beitzel

Authorizes the trustees or other officers in charge of a pension or retirement system or other specified fund for the Upper Potomac River Commission to invest and reinvest money in their custody or control as provided by rules or procedures established by the commission.

The legislation also requires any pension plan controlled by the commission on or after July 1, 2019, to adhere to the principles of the Uniform Management of Public Employee Retirement Systems Act that address the investment and management of funds for a public pension system.

HB 349/SB 361 – Special Charter Boat Licensing

Sponsored by Del. Jacobs / Sen. Hershey

Modifies an existing provision that authorizes the Department of Natural Resources to issue a special charter boat license that is valid for all individuals on a charter boat operated by a licensed fishing guide in tidal waters of the state.

The bill modifies the provision so that the charter boat license is valid for all individuals on a vessel under the guidance of a fishing guide with a limited fishing guide license, in tidal waters of the state, and all individuals on a single vessel operated by a fishing guide with a freshwater fishing guide license or a tidal fish license (commercial fishing license), in tidal waters of the state.

HB 406 – Fees and Structural Shoreline Stabilization for State-Owned Lakes

Sponsored by Del. Beitzel

Limits the application fee charged under the Wetlands and Waterways Program within the Maryland Department of the Environment (MDE) for a structural shoreline stabilization project located on or adjacent to a state-owned lake to a maximum of \$250.

The bill also requires MDE, in conjunction with the Department of Natural Resources, to identify up to three types of structural shoreline stabilization practices that may be implemented on or adjacent to a state-owned lake.

HB 298/SB 448 – Establishing Oyster Sanctuaries

Sponsored by Del. Busch / Sen. Pinsky

Establishes a network of five oyster sanctuaries in Harris Creek, the Little Choptank River, the Tred Avon River, the St. Mary's River, and the Manokin River.

With the exception of aquaculture activities under a valid lease, the bill prohibits catching oysters in or removing oyster seed from the five sanctuaries or sanctuaries established by the Department of Natural Resources in regulation. The bill also establishes requirements and deadlines relating to restoration plans for the five identified sanctuaries.

Land Management and Conservation

HB 1350 – Redefining Conservation Property for Tax Purposes

Sponsored by Del. Clark

Expands the definition of “conservation property” for property tax assessment purposes to include land subject to a perpetual conservation easement, including an easement sold or donated to the Maryland Agricultural Land Preservation Foundation, the Maryland Environmental Trust, or a land trust as defined by certain provisions of the Natural Resources Article or under another public conservation or preservation program.

The bill applies to taxable years beginning after June 30, 2019.

HB 170 – Defining Eligible Borrowers from the Jane E. Lawton Conservation Loan Program

Sponsored by the Economic Matters Committee

Repeals a reference to the State Agency Loan Program Fund and expands the definition of “borrower” under the Jane E. Lawton Conservation Loan Program (JELLP) to include eligible state agencies.

The bill also expands the purposes of JELLP to include reduction of greenhouse gas emissions and repeals a provision under JELLP that currently makes projects in structures used primarily for religious or fraternal activities ineligible for loan funding due to a recent U.S. Supreme Court decision.

HB 272 / SB 234 – Forest Mitigation Bank Credits Regulation

Sponsored by Del. Lafferty / Sen. Young

Requires a person that is subject to the Forest Conservation Act (FCA) to demonstrate that appropriate credits generated by a forest mitigation bank in the same county or watershed are not available before the person may pay money to a state or local forest conservation fund to meet any afforestation or reforestation requirements.

The bill also requires a local authority that has an established local forest conservation fund to provide to the Department of Natural Resources (DNR) a general plan identifying appropriate and potentially available areas for mitigation projects and detailed accounting procedures for accurately tracking money received into and expended out of the local forest conservation fund. Local forest conservation fund mitigation plans and accounting procedures must be made available to the public.

Under this law, a local authority, consistent with statutory afforestation and reforestation requirements, may not collect money for deposit into its local forest conservation fund unless the local authority has submitted to DNR the required general mitigation plan and accounting procedures and must ensure that the equivalent number of acres for which money is collected and paid into its forest conservation fund is mitigated in accordance with afforestation, reforestation, and conservation priorities and techniques authorized under FCA.

SB 25 – Recording Notice for Conservation Easements and Restrictions

Sponsored by the Judicial Proceedings Committee

Establishes that if an easement, covenant, restriction, or condition has been granted, devised, dedicated, reserved, or donated to Maryland Agricultural Land Preservation Foundation, Maryland Historical Trust, Maryland Environmental Trust (MET), another specified “land trust,” a county, or Department of Natural Resources, a notice of the easement, covenant, restriction, or condition may be recorded in the land records of the county in which the property interest is located. “Land trust” means a qualified conservation organization that is a qualified organization under a specified provision of the Internal Revenue Code and has executed a cooperative agreement with MET.

The notice must:

- State the name and current address of the current holder of the easement, covenant, restriction, or condition;
- Contain a statement that the easement, covenant, restriction, or condition is still in effect, as of the date of the notice;
- Contain the recording information for the original easement, covenant, restriction, or condition and any associated amendment or corrective document; and
- State the name of the fee simple owner of the land encumbered by the original easement, covenant, restriction, or condition as of the date of the notice.

The notice also must be indexed among the land records under the name of the holder of the easement, covenant, restriction, or condition and the fee simple owner specified in the notice. Failure to record a notice in accordance with the requirements of the bill, however, does not impair the rights or interests of the holders of the easement, covenant, restriction, or condition.

SB 58 – Maryland Agricultural Land Preservation Foundation Modifications

Sponsored by Education, Health, and Environmental Affairs Committee

Deletes obsolete references to “agricultural districts” associated with an agricultural land preservation process involving district agreements that were phased out.

The bill also transfers to codified statute certain uncodified provisions concerning the dates applicable to the ending of the process and the preservation of certain districts and authorizes each ex officio member of the board of trustees of the Maryland Agricultural Land Preservation Foundation to appoint any designee to serve in the member’s place on the board.

SB 729 – Requiring Forest Cover and Tree Canopy Study

Sponsored by Sen. Guzzone

Requires the Harry R. Hughes Center for Agro-Ecology (Hughes Center), in consultation with the Department of Natural Resources, the Maryland Department of the Environment, the Maryland Department of Planning, the Maryland Department of Agriculture, and the Chesapeake Bay Program, as appropriate, to conduct a technical study to review changes in forest cover and tree canopy in the state.

The bill requests that the Hughes Center must report its findings from the technical study to the Governor and the general assembly by December 1, 2019.

Solid Waste

HB 510 – Amendments to Collection and Acceptance of Waste for Final Disposal

Sponsored by Del. Cassilly

Prohibits the owner or operator of a refuse disposal system from accepting loads of separately collected organic waste for final disposal unless the owner or operator provides for the organics recycling of the organic waste.

The bill authorizes that loads of separately collected food waste that are determined by an organics recycling facility to be unacceptable for recycling due to contamination may be accepted by a refuse disposal system for final disposal.

SB 370 – Recycling Plan Requirements

Sponsored by Sen. West

Requires each county recycling plan to address the collection and recycling of recyclable materials from specified “office buildings.”

By October 1, 2021, the bill requires the owner of an office building that has at least 150,000 square feet of office space generally must provide recycling receptacles for the collection of recyclable materials and for the recycling of specified materials, as determined by the county or municipality in which the building is located. The legislation authorizes local governments to conduct inspections to enforce its provisions.

Water Quality and Pollution Control

HB 1253 – Testing and Reporting for Drinking Water in School Buildings

Sponsored by Del. Solomon

Expresses the intent of the general assembly that schools work proactively to reduce the lead concentration in drinking water outlets to a level below five parts per billion (ppb) and that specified funds be made available for this purpose.

The bill establishes new reporting requirements for schools and alters existing reporting requirements for the Maryland Department of the Environment (MDE) and the Maryland State Department of Education (MSDE). MDE, in consultation with MSDE, must establish and administer a grant program to assist local school systems with specified remedial costs.

The bill also requires the Interagency Commission on School Construction, in consultation with MDE, to establish and implement procedures for school systems to request funding from the existing Healthy School Facility Fund for specified remedial measures.

HB 417 – Requirements Related to Sewer Overflows and Treatment Plant Bypasses

Sponsored by Del. Hill

Establishes requirements regarding the content of the public notice procedures developed by the Maryland Department of the Environment (MDE), in cooperation with the Maryland Department of Health, local health departments, and local environmental health directors, related to sewer overflows and treatment plant bypasses.

The bill also repeals the current law requirement for the owner or operator of any sanitary sewer system, combined sewer system, or wastewater treatment plant to report sewer overflows or treatment plant bypass events to MDE via telephone.

SB 546 – Nutrient Management Plan Annual Reporting

Sponsored by Sen. Pinsky

Establishes that, with respect to a summary of a nutrient management plan that must be filed and updated with the Maryland Department of Agriculture (MDA) under existing law, the department may require an updated summary to take the form of an annual implementation report.

The bill requires that if a person, in operating a farm, uses or produces animal manure, the person's annual implementation report must include:

- The amount of animal manure imported to or exported from the person's farm;
- For any animal manure that was imported, the name and location of the sending farm; and
- For any animal manure that was exported, the name and location of the farm, alternative use facility, or manure broker that received the manure. If a person receives animal manure through a manure broker, the broker must provide the person with the name and location of the sending farm.

Beginning in 2020, an existing report that MDA must provide to the Governor and general assembly by December 31 of each year on the farm acreage covered by nutrient management plans and the implementation and evaluation of those plans must include information on the production and use of animal manure by farm operations covered by nutrient management plans during the previous year.

Finally, the legislation requires the Department of Natural Resources (DNR) to, as part of the department's Chesapeake Bay Mainstem and Tidal Water Quality Monitoring Program, conduct long-term sample collection in tributaries located on the lower Eastern Shore. At a minimum, DNR must regularly collect samples from each of nine specified locations. To the extent practicable, this water quality monitoring must be done in locations where water quality monitoring was conducted prior to December 1, 2013, in order to allow DNR and the public to assess long-term water quality trends.

MISSISSIPPI

Mississippi adopted 13 energy and environmental bills during the 2019 legislative session. As with other states, it enacted HB 366, the Mississippi Broadband Enabling Act to authorize electric cooperatives to establish, acquire, and wholly or partially own one or more broadband affiliates. HB 1269 established a fee of \$50 on each in-state vessel or boat used for off-bottom oyster aquaculture operations and \$100 on each out-of-state vessel or boat.

Energy Legislation

Energy Efficiency

HB 1362 – Relating to Energy Efficiency Standards on Buildings

Sponsored by Rep. Staples

Amends the requirement for certain standards that promote efficient energy use to be implemented during the design, direction, construction and alteration of certain buildings by extending the date of the repealer to July 1, 2023.

SB 2876 – Repealer Extension for Energy Efficiency Services Contracts

Sponsored by Sen. Fillingane

Extends the repealer on entering into energy efficiency lease financing contracts by the Energy Division of the Mississippi Development Authority from July 1, 2019 to July 1, 2021.

Natural Gas and Petroleum

HB 740 – State Oil and Gas Board Funding Provisions

Sponsored by Reps. Bounds and Staples

Deletes the provisions of law requiring certain expenses of the Mississippi State Oil and Gas Board to be defrayed by appropriation from the state general fund.

The bill also removes the requirement that the Oil and Gas Board be funded by appropriations from the general fund and establishes the board's authority to obtain funds from the capital expense fund for the emergency plugging of orphaned wells until July 1, 2021.

Reorganization and Coordination

HB 1738 – Contribution Authorization from Tallahatchie County to the City of Charleston

Sponsored by Reps. Reynolds and Mettetal

Authorizes the board of supervisors of Tallahatchie county, Mississippi, to make a contribution to the city of Charleston, Mississippi, for the maintenance, improvement, and repair or for the provision of utilities as well as internet services for city property that is known as the Charleston armory building and grounds.

Utilities

HB 366 – Mississippi Broadband Enabling Act

Sponsored by Rep. Gunn

Establishes that every electric cooperative is authorized to establish, acquire, and wholly or partially own one or more broadband affiliates.

An electric cooperative may allow its broadband affiliate(s) or an unaffiliated broadband operator to own, lease, construct, maintain and operate a broadband system on the electric cooperative's electric delivery system and to provide broadband services to the public utilizing the electric cooperative's broadband system or other parts of its electric delivery system, however an electric cooperative is not required to implement a broadband system or allow others to use broadband capacity on the electric cooperative's electric delivery system to provide broadband services.

Any lease of facilities by an electric cooperative to a broadband affiliate that includes the use of the electric cooperative's poles must specifically include pole attachment fees to be paid by the broadband affiliate to the electric cooperative equal to pole attachment fees charged by the electric cooperative to like unaffiliated, private entities.

Per the law, an electric cooperative must not:

- Charge an affiliate under this act an amount less than the electric cooperative charges an unaffiliated entity for the same item or class of items;
- Pay an affiliate under this act an amount more than the affiliate charges an unaffiliated entity for the same item or class of items; or
- Use its electric energy sales revenues to subsidize the provision by an affiliate or unaffiliated broadband operator of broadband services to the public.

The law states that an electric cooperative may, however, make capital investments in an affiliate, make loans to an affiliate at fair market rate, and enter loan guarantees for the benefit of an affiliate, all of which may be in such amounts and on such terms as the electric cooperative's board of directors determines to be prudent and authorizes.

Nothing in the act may be interpreted or construed to infringe upon nor otherwise encumber the property or property interests used by any investor-owned electric public utility to provide electric service to its customers. Any electric cooperative electing to operate under the provisions of this act must send notice by mail to its members of its elections for board of directors separately from any bill, and must send notice by mail to its members of application for candidacy to the board of directors, and annual meetings at least 90 days before an election or annual meeting. Any electric cooperative electing to operate under the provisions of this act must also publish, by paid advertisement in a newspaper or newspapers of general circulation in the electric cooperative's certificated area, results of its elections to each member.

HR 6 – Establishing Lineman Appreciation Month

Sponsored by Rep. Arnold

Declares April 2019 as “Lineman Appreciation Month” in recognition of the outstanding service of electrical linemen in the state of Mississippi and in remembrance of the life and legacy of Mr. Jamie Neal Guin, a lineman who lost his life attempting to restore power after severe weather swept through Northeast Mississippi.

SB 2687 – Extending the Repealer for the Gulf Coast Region Utility Board

Sponsored by Sens. Doty and Carter

Extends the repealer on the Mississippi Gulf Coast Region Utility Board from July 1, 2019 to July 1, 2023.

Environmental Legislation

Emergency Management and Homeland Security

HB 444 – Mississippi Windstorm Underwriting Association Amendments

Sponsored by Reps. Chism, Turner, Arnold, Miles, Paden, and Hines

Adds recoupable and nonrecoupable assessments to the premiums, fees, and other revenue of the Mississippi Windstorm Underwriting Association.

The bill defines “recoupable assessment” as any assessment, in whole or in part, that is levied on and payable by assessable insurers to the association which is directly recoverable from policyholders for any covered event.

Any assessment levied due to a covered event occurring during the calendar year 2019 must be a recoupable assessment. “Nonrecoupable assessment” means any assessment levied on and payable by assessable insurers to the association which is not directly recoverable from policyholders. “Covered event” means an event, such as a hurricane, other windstorm or hailstorm, which causes losses covered by the policies issued by the association to its policyholders.

A nonrecoupable assessment levied under this bill may not exceed six percent of the association’s year-end total limits in force for the preceding calendar year, or \$250,000,000, whichever is less. Further, in any calendar year, the annual total of all nonrecoupable assessment funds collected must not exceed, in the aggregate, \$250,000,000.

The bill also states that beginning July 1, 2019, and ending on June 30, 2020, before any fees are remitted to the association, \$3,500,000 must be diverted and deposited into the Rural Fire Truck Fund or Supplementary Rural Fire Truck Fund.

SB 3017 – Emergency Management Funding

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

Appropriates \$3,813,870 for the purposes of defraying the costs of the Mississippi Emergency Management Agency for the 2019-2020 fiscal year.

A further \$27.5 million is appropriated to the agency for its support and maintenance for the same fiscal year.

Inland Water Resource Management and Conservation

HB 1065 – Tax Credits for Inland Water Transport on Inland and Intracoastal Waterways

Sponsored by Rep. Ford

Authorizes an income tax job credit for enterprises that are primarily engaged in providing inland water transportation of cargo on lakes, rivers and intracoastal waterways for each full-time employee employed by the enterprise in a Mississippi full-time job.

The bill also limits the amount of the credit that may be claimed in any one year to an amount not greater than the total state income tax liability of the water transportation enterprise and any tax credit claimed but not used in any taxable year may be carried forward for five consecutive years.

HB 1269 – Licensing Fees for Vessels Used in Off-Bottom Oyster Aquaculture

Sponsored by Reps. Ladner and Byrd

Establishes a fee of \$50 on each in-state vessel or boat used for off-bottom oyster aquaculture operations and \$100 on each out-of-state vessel or boat used for off-bottom oyster aquaculture operations.

Solid Waste

HB 1540 – Contracting with Solid Waste Disposal Facilities

Sponsored by Reps. Byrd and Faulkner

Modifies current law allowing boards of supervisors and/or municipal governing bodies to enter into contracts related to the collection and transport of solid wastes for a term of up to six years, however, such contracts executed on or after July 1, 2019, the board of supervisors and/or municipal governing body may have the option to extend the contract by mutual consent of the parties in one-year increments up to four additional years without advertising for proposals, as long as rate adjustments remain consistent with the existing contract and the total term of the contract does not exceed ten years.

Water Quality and Pollution Control

SB 3121 – Water System Conveyance

Sponsored by Sen. Caughman

Authorizes the board of trustees of the Simpson County Economic Development District to convey the water tank and related water system currently existing in the Simpson county commerce park on Highway 43, together with a utility easement through the park property, to the city of Mendenhall, Mississippi.

MISSOURI

Missouri adopted 9 energy and environmental bills during the 2019 legislative session. As with several other member states, HB 220 addresses the taxation of wind energy. SB 133 establishes a Pesticide Education Fund in order to fund education and disposal programs for pesticide applicators.

Energy Legislation

Utilities

HB 220 – Wind Energy Taxation Regulations

Sponsored by Rep. Andrews

Declares that after January 1, 2020, any public utility company which has ownership of any real or personal property associated with a project that directly uses wind energy to generate electricity will be taxed using a standardized methodology of:

- Any wind energy property will be assessed on the county assessor's local tax rolls;

- Any property consisting of land and buildings related to the wind energy project will be assessed under current law; and
- All other business or personal property of a public utility company that owns property associated with a wind energy project will be assessed under existing law.

Additionally, the bill specifies that any real or tangible personal property associated with a project which uses wind energy directly to generate electricity will be valued and taxed by any state and local authorities having jurisdiction.

The bill also establishes the “Task Force on Wind Energy.” The task force will be composed of six members including three members from the House of Representatives, three members from the Senate, and two members from county government with experience in wind energy valuations. The task force must conduct public hearings, research, and compile a report for the General Assembly by December 31, 2019 regarding the economic benefits and drawbacks of wind turbines, statewide assessment and taxation of wind turbines and their connected equipment at the county level, compliance with state and federal programs and regulations, and potential legislation that would provide a uniform assessment and taxation methodology for wind turbines.

HB 355 – Protecting Critical Infrastructure and Other Modifications to Utility Regulations

Sponsored by Rep. Plocher

Creates new criminal offenses involving critical infrastructure facilities. A person commits the offense of trespass on a critical infrastructure facility if he or she purposefully trespasses or enters property containing a critical infrastructure facility without permission.

The offense of trespass on a critical infrastructure facility is a class B misdemeanor. If it is determined that the intent of the trespasser is to damage, destroy, or tamper with equipment, or impede or inhibit operations of the facility, the person shall be guilty of a class A misdemeanor.

A person commits the offense of damage of a critical infrastructure facility if he or she damages, destroys, or tampers with equipment in a critical infrastructure facility. The offense of damage of a critical infrastructure facility is a class D felony. The provisions of the bill do not apply to conduct protected under the Constitution of the United States, the Missouri Constitution, or any state or federal law or rule.

The bill also authorizes the board of aldermen of cities of the fourth classification to seek an appraisal and to conduct reasonable analyses before putting a proposed water or wastewater system for sale or a sale of a gas plant before the voters. The board may consider alternatives to a sale and the fair market value may be a matter of negotiation. Good faith notification efforts of any ballot measure may be made through a variety of media including websites and should target voters and users of the utilities as specified in the bill.

The bill further exempts rural electrical cooperatives, nonprofit corporations, or any electrical corporation operating under a cooperative business plan from the requirement any corporation that practices architecture, professional engineering, professional land surveying, or professional landscape architecture obtain a certificate of authority for each profession.

The public service commission is also now allowed to retain an independent technical advisory staff and a personal advisor to each commissioner. The bill also specifies that communications with advisory staff and advisors regarding deliberations by the commission or matters that arise during the course of commission proceedings are protected from disclosure. Any advisory staff member or personal advisor who previously worked for an entity regulated by or appearing before the commission may not advise the commission on pending cases in which the advisory staff member or personal advisor participated while employed by the entity.

The bill exempts from the definition of “electrical corporation” municipally owned electric utilities, rural electric cooperatives, and any person or corporation that is not engaged in the production or sale of electricity at wholesale or retail, that sell, lease, own, control, operate, or manage one or more electric vehicle charging stations as that term

relates to the Public Service Commission. The bill also specifies that when municipally owned electric utilities or rural electric cooperatives are providing electric service to structures outside their service boundaries, an electric vehicle charging station reasonably close to the structure is considered a contiguous or adjacent addition.

Finally, the legislation modifies the definition of “electric supplier” as it relates to the trespass rules for trimming, removing, and controlling trees to include municipally owned electric power systems and utilities.

Environmental Legislation

Environmental Health Services

HB 655 – Modifying Provisions Related to Killing Feral Hogs

Sponsored by Rep. Dinkins

Defines “landowner’s agent” as any person authorized to be present on his or her property with regard to the culling of feral swine.

SB 391 – Establishing the Joint Committee on Agriculture

Sponsored by Sens. Bernskoetter and Haffner

Establishes the Joint Committee on Agriculture. The Committee must study the economic impact of Missouri’s agricultural industry in the state, the agricultural industry’s ongoing efforts to improve environmental stewardship while improving the economic sustainability of Missouri agriculture, ways to create incentives to encourage members of the agricultural industry to adopt best practices to scientifically address Missouri’s carbon footprint, and Missouri residents’ views on agricultural issues.

The Committee must compile a full report of its activities for submission to the general assembly. The report must be submitted no later than January 15th of each year in which the general assembly convenes in regular session, starting with the year 2021.

Further, this act, any orders, ordinances, rules, or regulations promulgated by county commissions and county health center boards must not impose standards or requirements on an agricultural operation and its appurtenances that are inconsistent with or more stringent than any provisions of law, rules, or regulations relating to the Department of Health and Senior Services, environmental control, the Department of Natural Resources, air conservation, and water pollution.

All liquified manure from a concentrated animal feeding operation that is purchased or received by a third party and is surface-applied must maintain an application setback of at least 50 feet from a property boundary, 300 feet from any public drinking water lake, 300 feet from any public drinking water intake structure, 100 feet from any perennial and intermittent streams without vegetation abutting such streams, and 35 feet from any perennial and intermittent streams with vegetation abutting such streams. If the Department of Natural Resources promulgates rules providing for a distance requirement for the application of liquified manure from a concentrated animal feeding operation that are stricter than such setbacks, such rules must apply to the spread of all liquified manure subject to the provisions of the act. Any violation of this provision must be subject to the penalties set forth in the Missouri Clean Water Law for unlawful acts.

Hazardous Waste and Substance Management

SB 133 – Establishing the Pesticide Education Fund

Sponsored by Sens. Cunningham and Shaul

Creates the “Pesticide Education Fund”, to be used to provide funding for pesticide applicator certification programs, pesticide education programs, and pesticide waste and container disposal programs.

Land Management and Conservation

HB 821 – St. Joseph Land Bank Act

Sponsored by Rep. Solon

Establishes the Land Bank Act authorizing St. Joseph to create a land bank, which allows certain cities to establish a land bank agency for the management, sale, transfer, and other disposition of interests in real estate owned by the land bank. The purpose of establishing land banks under these provisions is to return land to use in private ownership, according to the bill.

HR 873 – Freedom Frontier National Heritage Area Reauthorization

Sponsored by Rep. Pfautsch

Urges Congress to reauthorize Freedom’s Frontier National Heritage Area, home to More than 265 museums, historic sites, and economic development organizations, with the passage of HR 1049 or other national heritage area program legislation.

Reorganization and Coordination

SB 185 – Missouri State Employees’ Retirement System Eligibility Modifications

Sponsored by Sen. Wallingford and Wiemann

Provides eligibility for all employees of the Missouri Housing Development Commission and of the Environmental Improvement Energy Resource Authority for membership in the Missouri State Employees’ Retirement System.

Solid Waste

SB 134 – Modifying the Powers of the Department of Natural Resources Director

Sponsored by Sens. Wallingford and Remole

Repeals the authority of the Director of the Department of Natural Resources to institute a civil action for injunctive relief to prevent violations concerning a solid waste disposal area.

NORTH CAROLINA

North Carolina adopted 9 energy and environmental bills during the 2019 legislative session. S 310 continued the trend of providing for broadband services via electric cooperatives. Under the category of emergency management, the state passed S 77 in order to allow for loans for cash flow needs as a result of disaster recovery.

Energy Legislation

Natural Gas and Petroleum

H 263 – Filling a Vacancy on the Oil and Gas Commission

Sponsored by Reps. Lewis and Brisson

Appoints James C. Lister of New Hanover County to the North Carolina Oil and Gas Commission for a term expiring on December 31, 2022, to fill the unexpired term of Robert C. “Chris” Reinhardt.

Utilities

S 310 – Providing for Electric Co-Op Rural Broadband Services

Sponsored by Sens. Brown, Newton, and Woodard

Eliminates certain restrictions on the formation and operation of separate business entities (subsidiaries) by Electric Membership Corporations (EMCs) that provide or support high speed broadband services.

The bill further provides that the terms of any easement held or otherwise used by an EMC for the provision of electrification may be expanded to allow use by the EMC or a subsidiary of the EMC for the purpose of supplying high-speed broadband service, and prohibits class action suits against an EMC or a wholly-owned subsidiary of the EMC in a suit in trespass or inverse condemnation based on a claim of expanded use of an easement.

The act also establishes a measure of damages to be paid to a landowner, if, in a suit in trespass or inverse condemnation based on a claim of expanded use of an easement, the landowner prevails over an EMC or a wholly-owned subsidiary of the EMC. Among other limitations, the damages could not exceed the difference between the fair market value of the property owner's entire property immediately before the taking and the fair market value of the property owner's property immediately after the taking. Upon payment of damages, the EMC or a wholly-owned subsidiary of the EMC would be granted a permanent easement for the trespass that was the subject of the claim.

H 329 – Renewable Energy Amendments

Sponsored by Reps. Szoka, Arp, Hanig, and Warren

Amends the definition of “public utility” to provide that a person who uses an electric vehicle charging station to resell electricity to the public is not a public utility if certain conditions apply.

The Environmental Management Commission (EMC) is directed by the bill to adopt rules establishing a regulatory program to govern:

- The management of end-of-life photovoltaic (PV) modules and energy storage system batteries, including requirements for stewardship programs for the recycling of such equipment; and
- Decommissioning of utility-scale solar projects and wind energy facilities.

The Department of Environmental Quality (DEQ) is further directed to establish a stakeholder process supporting development of the rules.

Finally, the act extends certain treatment given to small power producers that produce energy from swine and poultry waste to certain small hydroelectric power facilities, with respect to an exemption concerning capacity payments to small power producers under standard contracts.

H 1015 – North Carolina Utilities Commission Placement

Sponsored by the House Rules, Calendar, and Operation Committee

Confirms Christopher J. Ayers as executive director of public staff of the North Carolina Utilities Commission for a term of July 1, 2019 to June 30, 2025.

Environmental Legislation

Coastal Zone Management

S 648 – Supporting Shellfish Aquaculture

Sponsored by Sens. Sanderson and Rabon

Authorizes the Secretary of the Department of Environmental Quality to establish Shellfish Aquaculture Enterprise Areas and the Marine Fisheries Commission (MFC) to adopt rules necessary to implement the process for establishing Shellfish Aquaculture Enterprise Areas.

The bill also directs the Division of Marine Fisheries (DMF) of the Department of Environmental Quality (DEQ) to identify areas in waters that are under a shellfish leasing moratorium that could potentially be established as Shellfish Aquaculture Enterprise Areas.

A pilot project is established by the legislation under which the Secretary could grant up to three shellfish cultivation leases or water column leases in Pamlico Sound. Each lease could be up to 50 acres in size, must be separated from any other lease and from the shoreline by at least 250 yards, and no person could hold more than 100 acres of leases. DMF will study the advantages and disadvantages associated with leasing such areas within Pamlico Sound and will submit an interim report to the general assembly no later than January 1, 2025, and a final report no later than January 1, 2030. In its final report, DMF will include a recommendation on whether the pilot project should be terminated, be made permanent, or be expanded. The pilot project must terminate July 1, 2030, and any leases granted pursuant to it would terminate no later than July 1, 2031.

Emergency Management and Homeland Security

S 77 – Disaster Funding for Certain Counties

Sponsored by Sens. Sawyer, Ballard, and Jackson

Provides that a person who experienced a verifiable loss of agricultural commodities due to Hurricane Michael, and whose farm is located in a county that was designated under a Presidential or Secretarial Disaster Declaration as a result of Hurricane Michael between January 31, 2019 and February 15, 2019, is eligible for financial assistance for losses of agricultural commodities under the Hurricane Florence Disaster Fund.

S 605 – Highway Storm Recovery Act

Sponsored by Sens. Rabon, Harrington, and Davis

Transfers funds to the Department of Transportation to be used as a loan for cash flow needs as a result of disaster recovery.

The bill directs the State Controller to transfer \$90 million from the unreserved fund balance from the general fund to the Disaster Relief Cash Flow Loan Fund. Any funds remaining from the Hurricane Florence Disaster Recovery Reserve must also be transferred to the fund.

The Department of Transportation is required by the bill to only use money in the relief fund to meet the cash flow needs of the Department resulting from expenditures related to disaster relief. Any reimbursements by the federal government must be paid back into the fund.

Inland Water Resource Management and Conservation

H 432 – Water Usage Rates for Contiguous Dwelling Units

Sponsored by Reps. Shepard, Grange, Hurley, and Hardister

Provides that if the Utilities Commission approves a flat rate to be charged by a water or sewer utility for the provision of water or sewer services to contiguous dwelling units of leased premises, the lessor may pass through and charge the tenants of the contiguous dwelling units the same flat rate for water or sewer services, rather than a rate based on metered consumption.

Reorganization and Coordination

H 532 – Land and Water Conservation Fund Authority Amendment

Sponsored by Reps. Blackwell, Setzer, McGrady, and Dobson

Transfers authority to administer the federal Land and Water Conservation Fund to the Department of Natural and Cultural Resources.

OKLAHOMA

Oklahoma adopted 31 energy and environmental bills during the 2019 legislative session. SB 1000 amended its Oklahoma Energy Independence Act by exempting residential property from the Oklahoma Energy Independence Act and gives counties the authorization to establish commercial Property Assessed Clean Energy programs. HB 1218 establishes conditions that constitute extreme fire danger for the purposes of implementing burn bans to include when temperatures are forecasted over 100 degrees for any three consecutive days.

Energy Legislation

Alternative Energy Development

HB 1263 – Modifying Tax Credits for Electricity from Zero-emission Facilities

Sponsored by Rep. Hilbert and Sen. Pugh

Allows claimants of a tax credit for electricity generated by a zero-emission facility to make an irrevocable decision to not receive a direct refund for a given tax year for credits generated for the first time on or after July 1, 2019.

The bill states that any credits not directly refunded may be carried forward as a credit against subsequent income tax liability for up to 10 years. After the final year of carry forward, any credits remaining will be refunded at 85 percent of the value.

HB 2118 – Setback Requirements for Wind Energy Facilities

Sponsored by Rep. Ortega and Sen. Stanislawski

Clarifies certain restrictions on wind turbine construction by authorizing the Corporation Commission to seek enforcement of setback requirements through its administrative court system.

The existing restriction that a wind energy facility not encroach upon or adversely impact the mission, training, or operations of a military installation is extended to individual wind turbines. Documentation that the Department of Defense's adverse impacts have been resolved must to be submitted to the Corporation Commission and the Oklahoma Aeronautics Commission.

The act also authorizes the Oklahoma Aeronautics Commission to promulgate rules regarding siting near military installations and mitigation of potential related harm. The owner of a wind energy facility is also required to submit to the Corporation Commission and the Aeronautics Commission copies of all FAA forms for individual wind turbines to be constructed.

SB 475 – Sunset Date Amendment for Zero-Emission Facility Generation Tax Credit

Sponsored by Sen. Quinn and Rep. Lepak

Clarifies the sunset date as December 31, 2021 instead of tax year 2021 for a tax credit for electricity generated by a zero-emission facility.

Coal and Minerals

HB 2471 – Mining Moratorium Related to Sole Source Groundwater

Sponsored by Rep. McCall and Sen. McCortney

Establishes a moratorium on mine operations and mining permits that may affect sensitive sole source groundwater basins or subbasins.

The bill lays out conditions for the termination of the moratorium, including a coordinated effort between the Oklahoma Water Resources Board, the Oklahoma Department of Environmental Quality, the Department of Mines, East Central University, and federal and tribal governmental agencies to study sensitive sole source aquifers and develop administrative rules that implement study findings and facilitate interagency coordination.

SB 1080 – Issuing a Correction to Mining Moratorium Bill

Sponsored by Sen. Treat and Rep. McCall

Corrects HB 2471 to state that the moratorium remains in effect until the agencies listed provide final rules for effective interagency consultation and coordination of activities among the Water Resources Board, the Department of Mines, and the Department of Environmental Quality on administrative matters relating to operations that overlie a sensitive sole source groundwater basin or subbasin.

Energy Efficiency

SB 1000 – Oklahoma Energy Independence Act Amendments

Sponsored by Sen. Leewright and Rep. Fetgatter

Exempts residential property from the Oklahoma Energy Independence Act and gives counties the authorization to establish commercial Property Assessed Clean Energy programs.

The bill also requires a property owner to obtain written consent from the holder of any mortgage on that property prior to the issuance of a loan pursuant to the act, and authority to determine terms of repayment of that loan is moved from the County Energy District Authority to the private lender.

Finally, the measure provides that a lien imposed runs with the property and has the same status as a lien for unpaid property taxes.

Natural Gas and Petroleum

HB 2095 – Clean-burning Motor Fuels Tax Credit Modifications

Sponsored by Rep. O'Donnell and Sen. Bice

Modifies a tax credit for investments in qualified clean-burning motor vehicle fuel property by:

- Extending the sunset date of the credit until December 31, 2027;
- Removing references to equipment or property that uses hydrogen fuel cells as the energy source;
- Modifying the amount and procedure for calculating credits;
- Establishing a \$20 million annual cap for credits claimed beginning January 1, 2020;
- Requiring the Oklahoma Commission to monitor tax credit usage and report usage to the state Secretary of Energy and Environment any time the amount of credits claimed reaches 80 percent of the annual limit; and
- Requiring the Secretary to notifying the Governor, House and Senate when the 80 percent threshold is reached.

HB 2151 – Petroleum Storage Tank Consolidation Act Modifications

Sponsored by Rep. Pfeiffer and Sen. Rader

Updates statutory references to and within the Oklahoma Petroleum Storage Tank Consolidation Act.

The measure also provides that any person who owns any measuring device who refuses to admit employees of the Corporation Commission upon their premises as necessary to perform their duties is guilty of a misdemeanor.

Reorganization and Coordination

SB 749 – Establishing the Public-Private Partner Development Pool

Sponsored by Sen. Rader and Rep. Hilbert

Creates the Public-Private Partner Development Pool (PPPDP), which will consist of proceeds from bonds issued and sold by Oklahoma Development Finance Authority (ODFA) to help finance eligible infrastructure development projects.

According to the bill, an eligible infrastructure development project must involve one or more eligible local governmental entity, a for-profit business and/or a federal government defense entity. For the purposes of the act, a federal government defense entity is defined as any U.S. Department of Defense installation in the state of Oklahoma including Fort Sill, Tinker Air Force Base, Altus Air Force Base, Vance Air Force Base and McAlester Army Ammunition Plant.

Utilities

SB 584 – Information Security Audits Requirements

Sponsored by Sen. Stanislawski and Rep. Ortega

Requires annual third-party information security audits for state agencies not consolidated under the provisions of the Information Technology Consolidation and Coordination Act.

The act excludes from such requirement Agencies subject to mandatory North American Electric Reliability Corporation (NERC) cybersecurity standards.

Environmental Legislation

Air Quality and Pollution Control

SB 1005 – Modifying Rules for Land Clearing and Burning Brush

Sponsored by Sen. Allen and Rep. O'Donnell

Prohibits the Department of Environmental Quality from requiring air curtain incinerators for land clearing or brush piles, except in present or past nonattainment areas for National Ambient Air Quality Standards or metropolitan statistical areas with more than 900,000 people, according to the 2010 Census.

The bill also declares that burning brush piles is not considered a public nuisance.\

Emergency Management and Homeland Security

HB 2301 – State Veterinarian Responsibilities Amendments

Sponsored by Rep. Caldwell and Sen. Murdock

Modifies the authority of the state veterinarian to include issuing stop movement orders for all livestock in the state so that the precise location of a foreign animal disease can be determined.

The measure requires any person providing training for emergency management of livestock or other animals to obtain curriculum approval from the state veterinarian as well.

SB 870 – Wildfire Mitigation Authorizations

Sponsored by Sen. Murdock and Rep. Newton

Authorizes county officers and employees to cut firelines, conduct prescribed burns to mitigate hazardous wildland fuels, and carry out all customary activities in the fighting of wildfires on private land without incurring liability for any individual under the direction of forest rangers and with the written permission of the landowner.

Environmental Health Services

HB 1150 – Feral Swine Trapping Cost-Share

Sponsored by Rep. Grego and Sen. Boggs

Adds feral swine trapping to the list of eligible cost-share programs within the Oklahoma Conservation Commission.

HB 1218 – Burn Ban Modification

Sponsored by Rep. Hardin / Sens. Simpson and Kidd

Modifies the conditions that constitute extreme fire danger for the purposes of implementing burn bans to include when temperatures are forecasted over 100 degrees for any three consecutive days.

SB 543 – Feral Swine Definition Amendment

Sponsored by Sen. Pederson and Rep. Pfeiffer

Modifies the definition of “feral swine” to include any *Sus scrofa* (wild boar) that have been captured, hunted, pursued, maintained, utilized, or released for any sporting purposes.

SB 551 – Removing Approval Requirement for Importing Deer from Department of Wildlife Conservation

Sponsored by Sen. Murdock and Rep. Pfeiffer

Changes the requirement that the Department of Wildlife Conservation approve importation of Cervidae (deer) originating in a county or Canadian province where Chronic Wasting Disease exists.

The measure omits the agency approval but requires that the state veterinarian notify the agency of the importation.

SB 1001 – Prohibiting the Local Regulation of Auxiliary Containers

Sponsored by Sen. Leewright and Rep. Roberts

Preempts local governments from regulating, taxing, or restricting the sale or use of an “auxiliary container,” such as plastic bags, plastic water bottles, or disposable food containers.

SB 1003 – Establishing the Oklahoma Environmental, Health, and Safety Audit Privilege Act

Sponsored by Sen. Allen and Rep. McBride

Creates the Oklahoma Environmental, Health and Safety Audit Privilege Act “to encourage voluntary compliance with environmental and occupational health and safety laws.”

The act defines “audit” as a systematic voluntary evaluation of compliance with environmental or health and safety laws by anyone that is considering the acquisition of a regulated facility or operation. Audits are due to the governmental entity with jurisdiction over the facility within six months of the date the audit is initiated or the closing date.

Inland Water Resource Management and Conservation

HB 1156 – Title and Registration Exemptions for Certain Watercraft

Sponsored by Rep. Worthen and Sen. Leewright

Exempts canoes, kayaks and paddleboats from title and registration requirements.

The measure allows the owners of any exempt vessel to title and register vessels for the purpose of proof of ownership or vessel identification.

HB 2142 – Creating the Tri-State Commission on the McClellan-Kerr Arkansas River Navigation System

Sponsored by Rep. Sneed and Sen. David

Creates the Tri-State Commission on the McClellan-Kerr Arkansas River Navigation System, in anticipation of being joined in the commission by Arkansas and Kansas.

According to the bill, the commission will consist of three House members and three Senate members whose legislative districts encompass part of the territory in which the river navigation system is located, as well as one member of the Water Advisory Board of the Oklahoma Department of Transportation, to be selected by the Governor.

HB 2143 – Revolving Fund Creation for MKARNS

Sponsored by Rep. Sneed and Sen. David

Creates a revolving fund for the purpose of repairing or constructing essential assets which are part of the McClellan-Kerr Arkansas River Navigation System (MKARNS).

The bill specifies that monies in the revolving fund must be used for MKARNS and may only be expended after consultation with all Native American tribes with an ownership interest in the riverbed.

HB 2263 – Establishing the Groundwater Irrigation District Act

Sponsored by Rep. Patzkowsky and Sen. Murdock

Creates the Groundwater Irrigation District Act, which provides a framework for forming groundwater irrigation districts.

At least 10 groundwater permit holders must submit a petition to the county board of commissioners to form a district, according to the bill. Once the commissioners verify the petition, it is submitted to the Oklahoma Water Resources Board (OWRB). The county commissioners select the initial board members and meeting place for the groundwater irrigation district to adopt bylaws, which require approval by the OWRB within 60 days.

HB 2474 – Provisions for Limited Quantity Stream and Groundwater Permitting

Sponsored by Rep. McCall and Sen. Simpson

Requires the Oklahoma Water Resources Board to provide a 30-day protest period for limited quantity stream water permits and limited quantity groundwater permits and requires that those permit applications are posted online.

SB 568 – Revolving Fund Creation for Hydrology Study

Sponsored by Sen. McCortney and Rep. McCall

Creates a revolving fund to pay for the next phase of the Arbuckle-Simpson Hydrology Study, which began in 2003 and is necessary to explore the relationship between the Arbuckle-Simpson aquifer and surface water.

SB 985 – Grand River Dam Authority Modifications

Sponsored by Sen. David and Rep. West

Authorizes the Grand River Dam Authority (GRDA) Board of Directors to set at-cost fees for services performed by the district.

The bill directs the board to develop written policies regarding the purchasing of property, fleet management marketing, purchase and disposition of real and private property, and develop compensation and hiring practices for employees. Districts are authorized to acquire wind and battery storage sites.

Additionally, the act exempts GRDA from the provisions of the Information Technology Consolidation and Coordination Act, State Travel Reimbursement Act, and Surplus Property Act if the district does not subject itself to the provisions.

Land Management and Conservation

HB 2097 – Underground Facilities Damage Prevention Act Modifications

Sponsored by Rep. O'Donnell and Sen. Allen

Provides that certain operations in private or public easements or rights-of-way are included within the definition of excavate in the Oklahoma Underground Facilities Damage Prevention Act.

The bill also requires underground facility operators to locate and mark their facilities prior to the date and time excavation work is scheduled to begin.

Reorganization and Coordination

SB 1027 – Sunsetting Certain Environmental Quality Boards and Councils

Sponsored by Sen. Dahm and Rep. Gann

Establishes a sunset date of July 1, 2022, for the following Department of Environmental Quality Councils:

- Water Quality Management Advisory Council;
- The Hazardous Waste Management Advisory Council;
- The Solid Waste Management Advisory Council; and
- The Radiation Management Advisory Council.

Solid Waste

SB 878 – Used Tire Recycling Act Amendments

Sponsored by Sen. Leewright and Rep. Hilbert

Increases various fees imposed on tire purchases to be used for the Used Tire Recycling Act.

The measure defines various tire-derived products achieved through tire processing and replaces “crumb rubber” with “tire-derived product” and lowers the percentage of revenue placed in the Used Tire Recycling Indemnity Fund allocated to the Department of Environmental Quality (DEQ) from 28 percent of the \$2.50 fee on tire facilities to 24.1 percent of the new \$2.90 fee. A \$50,000.00 per month apportionment cap to DEQ is also created.

The bill also prohibits the act of storing or transporting recycled tires outside of the rules promulgated by the DEQ and defines “automobile” as every motor vehicle of the type constructed and used for the transportation of ten persons or less, including the driver, or used for the transportation of property, provided, however, that the automobile’s gross vehicle weight rating does not exceed 16,000 pounds.

Water Quality and Pollution Control

HB 2476 – Industrial Wastewater Exemptions Governed by the Oklahoma Funeral Board

Sponsored by Rep. McCall and Sen. Hall

Exempts funeral, cremation and embalming establishments from the Department of Environmental Quality’s (DEQ) agency rules regarding industrial wastewater systems.

In the case of a spill, leak, or release of industrial wastewater, the act requires these establishments, which are governed by the Oklahoma Funeral Board, to take immediate action to contain and remediate the spill, notify adjacent landowners as soon as possible, and report it by phone to the DEQ within 24 hours and in writing within seven days.

Removes the descriptor “fresh” as it applies to groundwater regulated by the Oklahoma Water Resources Board.

The act also provides that the taking and use of marginal water in accordance with the Oklahoma Groundwater Law and the rules of the Oklahoma Water Resources Board (OWRB) must be considered a beneficial use and not waste. The OWRB is directed by the measure to promulgate and implement rules for the taking and use of marginal water. Such use of marginal water may not impair the use of fresh water basins.

PUERTO RICO

Puerto Rico adopted 2 energy bills during the 2019 legislative session. SB 984 and SB 1121 established the Puerto Rico Energy Cooperatives Act and the Puerto Rico Energy Public Policy Act respectively. Together, the two bills establish the goal and methods for moving toward 100 percent renewable energy.

Energy Legislation

Reorganization and Coordination

SB 984 – Puerto Rico Energy Cooperatives Act

Sponsored by Sens. Seilhamer-Rodríguez and Bhatia-Gautier

Creates the “Puerto Rico Energy Cooperatives Act,” in order to establish the public policy on Energy Cooperatives in Puerto Rico’s energy model.

The bill supports the decentralization of Puerto Rico’s energy model, which is currently obsolete and useless for the people. In order to achieve said model’s decentralization, we support the development and integration of community solar, regional, or municipal community microgrids, and electric or energy cooperatives so that communities, including special or isolated communities, may have access to renewable energy options, thus contributing to their resilience to natural disasters.

The organization of Electric or Energy Cooperatives in accordance with the act are empowered to generate, transmit, distribute, and sell electric power subject to the following requirements:

- Electric or Energy Cooperatives must generate, transmit, and/or distribute electric power mainly to meet the electric power needs of the members and communities thereof. However, Electric or Energy Cooperatives may also enter into agreements to sell electric power to other affiliate consumers, as well as to sell the excess power produced to other power grid services or the Electric Power Authority. All types of users who are consumers of electric power services and/or electric power workers and producers, including natural persons or nonprofit juridical persons, may be members of energy cooperatives;
- The number of members must be determined by the cooperative’s production resources and its generation, transmission, and distribution capacity. The cooperative must not be required to keep or admit new members when such capacities have been exceeded. A minimum of five members must be required to organize Electric or Energy Cooperatives;

- Electric or Energy Cooperatives must operate without profit, for its main purpose must be to provide electric power services in a continuous, stable, efficient, and reliable manner to their members and other consumers at the lowest possible cost. Rates and other fees charged by an Electric or Energy Cooperative to its members must be sufficient to pay the operating and maintenance expenses required by the electric power system, as well as their financial obligation in order to guarantee the continuity, stability, efficiency, and reliability of services, meeting the needs of future developments; and
- The retiring of any capital, property, or rights contributed by a member who is withdrawing from the cooperative which has the foreseeable consequence of affecting in the short- or the medium-term the financial stability or the operations of the cooperative, may be contingent on the establishment by the Board of Directors an investment repayment plan, whose purpose must be to guarantee at all times during the process the financial stability of the cooperative and the continuity of its operations.

The bill also establishes that the Puerto Rico Energy Bureau or its legal successor must prescribe by regulations the minimum technical requirements for the establishment of Electric or Energy Cooperatives as part of the industry regulated by the Bureau. Electric cooperatives must be certified as “electric power service companies” in accordance with the regulations of the Puerto Rico Energy Bureau. The bill declares that the Puerto Rico Energy Bureau or its legal successor may review and approve rates and other fees charged by Electric or Energy Cooperatives, to ensure that such rates are just and reasonable, and may exercise administrative jurisdiction over Electric or Energy Cooperatives as well as over any other entities participating in the energy industry, guaranteeing at all times that Electric or Energy Cooperatives must enjoy all the powers and prerogatives granted by law to other juridical persons, and preventing discriminatory restrictions or additional requirements from being applied thereto for having been organized as a cooperative.

Finally, the Puerto Rico Energy Bureau or its legal successor must exercise its regulatory powers over Electric or Energy Cooperatives after considering the unique nature thereof as cooperative enterprises property of, governed by, and operated for the benefit of their consumer members. Provided, that by a majority vote of its members, when members lose trust in their Board of Directors, the Energy Bureau may intervene in administrative matters for the purpose of implementing guidelines and parameters that allow for order and proper operation to be restored in electric cooperatives.

Utilities

SB 1121 – Puerto Rico Energy Public Policy Act

Sponsored by Sens. Seilhamer-Rodríguez and Bhatia-Gautier

Creates the “Puerto Rico Energy Public Policy Act” for the purposes of establishing the Puerto Rico public policy on energy in order to set the parameters for a resilient, reliable, and robust energy system with just and reasonable rates for all class of customers.

The bill declares as public policy of the Government of Puerto Rico:

- The Universal Access to Electric Power Service:
 - To guarantee that the cost of the electric power generated, transmitted, and distributed in Puerto Rico must be affordable, just, and nondiscriminatory for all consumers; and
 - To guarantee the availability of energy materials and supply.
- Energy Service Model:
 - The Government of Puerto Rico must promote the necessary changes in order to become an electric power system that satisfies the energy needs of the 21st century-Puerto Rico;

- To oversee that the implementation of strategies geared toward achieving efficiency in the generation, transmission, and distribution of electric power must be sought in order to guarantee the availability and supply thereof at an affordable, just, and reasonable cost;
- To properly use all electric power contributions, subsidies, or direct or indirect payments in accordance with the objectives for which they were granted;
- To establish criminal penalties, both at a personal and corporate level, for noncompliance with legal mandates by electric power service companies;
- To make the transition to an electric power service model that does not represent a barrier for natural and juridical persons that choose to become consumers, producers or prosumers;
- The transformation of the Puerto Rico electric power system must include the development and integration of community solar; community, regional, or municipal microgrids; and electric or energy cooperatives in order for persons and communities to have access to renewable energy alternatives; and
- The Government of Puerto Rico must ensure that the establishment and implementation of the public policy on energy is an ongoing planning, consultation, execution, evaluation, and improvement process in all energy-related matters.
- Energy Regulatory Entity and Performance-based Regulations:
 - An independent electric power regulatory entity with broad powers and duties and with the necessary resources must be created to ensure compliance with the energy public policy, the provisions and mandates of this Act, and to ensure that energy costs are just and reasonable, affordable, clear and easy to compare, and transparent through oversight and rate reviewing;
 - The regulatory entity must thoroughly scrutinize the electric power grids' maintenance and require periodic reports describing the status of such maintenance;
 - The regulatory entity must use mechanisms other than cost of service ratemaking when deemed necessary in order to comply with the metrics and attain the goals set forth in this public policy; and
 - When deemed appropriate, during ratemaking processes, the regulatory entity must establish performance-based incentives and penalty mechanisms for electric power service companies as well as mechanisms that ensure strict compliance with the orders of the regulatory entity.
- Energy Culture, Education, Research, and Development:
 - To promote the responsible and effective use of energy resources in Puerto Rico by residential, commercial, and industrial customers;
 - To make efforts to educate customers on energy demand and consumption as Puerto Rico's electrical system transitions from a mostly centralized generation system to a distributed generation system based on renewable energy sources; and
 - To strengthen the research and development of solar, wind, and hydroelectric power, among other sustainable power generation technologies to maximize their use.
- Energy Generation, Efficiency, and Demand Response Programs:
 - To dramatically reduce our dependence on energy sources derived from fossil fuels and to develop short-, medium-, and long-term plans that allow us to establish a well-balanced and optimum portfolio standard based on the aggressive development of renewable energy for Puerto Rico's electrical system;

- To ensure, to the greatest extent possible, the conversion from a centralized generation system to one that can operate with at least two (2) fossil fuels that minimize greenhouse gas emissions and is capable of integrating distributed generation and renewable energy;
- To ensure that the purchase of energy between independent power producers and PREPA, its successor, or the transmission and distribution network Concessionaire is made at a reasonable price that takes advantage of the price reduction for the factors of production and conforms to the market, geographical realities, and the reality of the electric power infrastructure of Puerto Rico, among other factors;
- To ensure that power purchase agreements do not hinder the development of a modern system that integrates renewable resources and power from distributed generation sources;
- To promote and oversee that prices are based on the actual cost of the service provided, efficiency standards, or any other parameters recognized by the electric power service industry; and
- To establish demand response, demand-side management, and energy efficiency programs that take into account short-, medium-, and long-term programs and provide incentives to customers, with a focus on promoting a change in their behavior that leads to a reduction in costs and energy consumption, as well as greater stability and reliability.
- Environmental Responsibility:
 - The Government of Puerto Rico, its agencies, municipalities, and public corporations, as well as all natural or juridical persons must comply with every environmental law and regulations applicable to the Government of Puerto Rico in order to preserve the ecosystems and improve the quality of life of all Puerto Ricans; and
 - To focus electric power generation on aggressively reducing the use of fossil fuels, minimizing greenhouse gas emissions, and supporting initiatives in Puerto Rico that focus on the issue of climate change, specifically on mitigation, adaptation, and resilience.
- Energy Use in the Public Sector:
 - The Government of Puerto Rico, its agencies, municipalities, and public corporations must become efficient and responsible energy consumers, and must promote energy conservation and efficiency among all the branches and instrumentalities of the Government of Puerto Rico as well as the population in general; and
 - The Government of Puerto Rico must achieve a swift conversion of all public lighting to light emitting diode (LED) lighting as well as renewable energy in order to reduce the general cost of illumination at a municipal and state level.
- Distributed Energy, Energy Storage, and Technology Integration:
 - To identify and keep updated the maximum percentage of renewable energy that Puerto Rico's electricity infrastructure is capable of integrating and incorporating safely and reliably at a reasonable cost, as well as identify the appropriate technologies and sites that must make such integration feasible in accordance with the best interests of Puerto Rico; transmission and distribution network operators must perform the necessary improvements to achieve the metrics of the Renewable Portfolio Standard;
 - The Electric Power Authority, its successor, or the transmission and distribution network Concessionaire must comply with the rules established for the interconnection of distributed generation and microgrids, including the expedited processes under the regulations for the interconnection of generators to the distribution system, and the processes to interconnect microgrids and, in addition, it must establish an effective process to reduce the interconnection time;

- To promote the development of microgrids, particularly in essential service facilities and in remote areas, as a successful, cost effective, reliable, and safe mechanism to promote the resilience and modernization of the distribution networks;
- To require that every electric power service company design mitigation options adapted to their information technology networks and operations which may include the adoption of specific cyber security measures to effectively prevent and manage cyber-attacks; and
- To conduct studies as appropriate to set forth the specific energy storage goals that are best suited to the needs of Puerto Rico.
- Infrastructure Design, Resilience, Maintenance, and Security:
 - To ensure the security and reliability of our electricity infrastructure by integrating clean and efficient energy, and using modern technologies that promote more efficient and lower cost operations;
 - To design the infrastructure of the electrical system to be more robust and resistant to weather events and other disasters; and to enforce design codes that meet the National standards in effect, as well as security requirements for the utility poles that carry power distribution lines and telecommunication lines, among others;
 - To plan the electrical system while addressing the interdependency between the electric power system and other essential service facilities to counteract the effects of power outages;
 - To develop long-term strategies to keep up with electric power transmission and distribution voltage standards in order to maintain compatibility with the states of the Nation, thereby improving resilience and mutual assistance;
 - To maintain the electrical infrastructure in optimal conditions to ensure the reliability, resilience, and safety of the electric power service; electric power service providers must be required to submit energy assurance plans, asset standardization plans, spare part inventories, and plans with the best system maintenance practices;
 - To develop continuous improvements for the electric power grid, in order to promote its resilience and diversification, by combining the generation capacity with the demand by region, thus facilitating the effective transition to new technologies and renewable energy sources;
 - To provide incentives for grid modernization incorporating technology as appropriate to attain the transformation goals without entailing excessive spending; and
 - To install underground power distribution lines in urban centers, to the maximum extent possible and upon conducting the pertinent analysis, in order to increase the resilience, rehabilitation, and repopulation of such urban centers, giving special attention to essential service facilities.
- Customer Service, Participation, and Transparency:
 - To guarantee that every consumer has the right to receive a reliable, stable, and excellent electric power service, at a cost that is accessible, just and reasonable, with a bill that is clear and easy to understand, and with fast service response;
 - To resolve electricity bill or service disputes equitably and diligently; and
 - To promote transparency and citizen participation in every process related to electric power service in Puerto Rico.

The bill declares the goal of its energy public policy is to achieve the following:

- To promote the fastest and most efficient reconstruction, modernization, and revamping of the transmission and distribution network for the purpose of developing a robust and flexible system that can integrate new technologies, distributed generation, renewable energy sources, and efficient mechanisms as well as provide users with alternatives in the energy sector, thereby maximizing the available state and federal resources;
- Insofar as it is the most cost-efficient alternative, to promote the use of small-scale electric power plants with capacity to operate on diversified fuel mixes that minimize greenhouse gas emissions, with more modern technology and high efficiency capacity, and capable of integrating distributed generation and renewable energy into the transmission and distribution network;
- To prohibit the granting or extension of new or existing permits and/or contracts for electric power companies engaged in coal burning to begin or continue operations in Puerto Rico for the purpose of eliminating the use thereof by December 2027;
- To make it flexible for energy service consumers to become prosumers through programs such as the net metering program, and the adoption of behind-the-meter generation systems or other mechanisms currently available or to be available in the future;
- To set priorities for the maintenance of the electrical system infrastructure and create vegetation management programs;
- To require electric power service companies to adopt cybersecurity measures to effectively prevent and manage cyberattacks that may affect information technology networks and operations;
- To provoke the aggressive transition from electric power generation from fossil fuels to the integration of alternative renewable energy, distributed renewable energy, or sustainable renewable energy, which provide stability to the electric power system while maximizing renewable energy resources in the short-, medium-, and long-term. For such purpose, a Renewable Portfolio Standard is established in order to achieve a minimum of 20 percent by 2025; 50 percent by 2040; and 100 percent by 2050;
- To facilitate the interconnection of distributed generation to the transmission and distribution network through any available mechanism including, but not limited to, distributed generation, renewable energy sources, net metering, and the use of microgrids;
- To encourage the use of energy storage technology for consumers at all levels to facilitate and accelerate the integration of renewable energy sources and capitalize on their capacity as a distributed generation mechanism;
- To promote demand response programs with a defined timetable and incentives in order to make short-, medium- and long-term programs feasible, which programs must stress the benefits that residential and commercial consumers can reap from reducing their energy consumption during peak hours;
- To ensure that the 30 percent energy efficiency goal is attained by 2040;
- To replace 100 percent of public lighting with light emitting diode (LEDs) lighting and renewable energy by 2030;
- To make the equipment and design consistent with the USDA Rural Utilities Service (RUS) parameters whenever possible and appropriate to facilitate their replacements in ordinary and emergency situations;
- To strengthen the authority and functions of the Puerto Rico Energy Bureau by broadening its budget autonomy as well as its power to investigate, incentivize, oversee, and impose penalties on any natural or juridical person under its jurisdiction, in order to make feasible and enforce Puerto Rico's energy public policy; and

- To require every electric power service company in Puerto Rico to comply with the Integrated Resource Plan approved by the Energy Bureau.

Every new or existing electric power plant other than those operating exclusively on renewable energy sources must have the capacity to generate power from two or more fuels, taking into account that, as of 2028, the issuance of new permits, the award of new contracts or the extension of existing ones either to begin or continue operations of coal-fired electric power companies in Puerto Rico must be prohibited. At least 60 percent of the electric power generated from fossil fuels (gas or oil byproducts) must be high efficiency. The contracting parties who acquire or operate PREPA assets related to generation must modernize the electric power plants or replace them with high efficiency electric power plants within a period not to exceed five years after the execution of the Partnership or Sales Contract. After this initial period, the contracting party that opted for modernizing the electric power plants must replace them with high efficiency power plants within a period not to exceed five years after the initial period has ended.

Any power purchase agreement between the Authority and the transmission and distribution network Concessionaire and any independent power producer must be executed pursuant current law and the regulations adopted thereunder by the Bureau. However, when a power purchase agreement is part of a PREPA Transaction, the Energy Compliance Certificate issued must suffice. The Bureau must set clear parameters for the pricing, adjustments, price escalators, and profit margins of power purchase agreements. Such parameters must be consistent with price escalators adjustments normally used by the industry for such purposes, as well as any other parameter or method used to regulate gains attributable to power purchase agreements in order to ensure that such agreements have an appropriate and reasonable price. No Electric Power Company must realize gains attributable to fuel. The profit margin of independent generators under power purchase agreements must be consistent with the parameters established by the Bureau.

No contract for the establishment of new electric power plants may preclude compliance with the renewable portfolio standard and the integration of distributed generation, microgrids, or energy cooperatives. Power Purchase Agreements must be awarded considering the goals and mandates established in the Renewable Portfolio Standards which compel the transition from energy generation from fossil fuels to an aggressive integration of renewable energy. The authority or the transmission and distribution network Concessionaire must maximize the use of renewable energy, in accordance with the applicable local and federal laws, ensuring its integration into the electric power grid in a safe and reliable manner and guaranteeing the stability of the Island's energy transmission and distribution network, for example, by installing the necessary equipment and technology to ensure the connection of renewable energy sources to the electric power grid, or establishing alternate modes of operation for the electric power grid that mitigate the instability that this type of energy may cause to such grid. Said installation must be completed and incorporated into the Integrated Resource Plan so that other long-term planning options are not excluded and PREPA's finances are not compromised. The authority or the transmission and distribution network Concessionaire must oversee that the integration of renewable energy and take the necessary measures to ensure compliance therewith. Furthermore, the Authority must promote the direct use of renewable energy by its customers, particularly by expediting and simplifying any transaction, process, or requirement in connection with residential and commercial small rooftop solar projects of less than 25 kilowatts. The Bureau must oversee that the Authority, the transmission and distribution network Concessionaire, or the Department of Economic Development and Commerce comply with those simplified transactions, processes, and requirements. If practicable, the Authority, the transmission and distribution network Concessionaire, or the Department of Economic Development and Commerce must establish a financing mechanism to contribute to its development.

Distributed generation must have open and nondiscriminatory access to the distribution network subject to the regulations established by the Bureau, The Authority or the transmission and distribution network Concessionaire must identify the most effective and economical ways to make the electric power infrastructure of Puerto Rico more distributed, intelligent, resilient, and reliable, and to promote the use and strategic integration of sustainable energy technologies and practices, in accordance with the regulations of the Bureau. In carrying out this duty, the Authority or the transmission and distribution network Concessionaire must plan, build, and update distribution systems to ensure the integration to the maximum extent possible of distributed generation and microgrids.

SOUTH CAROLINA

South Carolina adopted 16 energy and environmental bills during the 2019 legislative session. On renewable energy, H 4133 establishes tax credits for certain solar energy property. H 3659 creates the the South Carolina Energy Freedom Act, which, among other changes, enumerates specific rights for electrical utility customers.

Energy Legislation

Alternative Energy Development

H 4133 – Tax Credits for Solar Energy Property

Sponsored by Rep. Weeks

Declares that a taxpayer is allowed an income tax credit equal to 25 percent of the cost, including the cost of installation, of a solar energy property if he constructs, purchases, or leases a solar energy property that is located in the state of South Carolina and if:

- The property is located on:
 - The Environmental Protection Agency’s National Priority List;
 - The Environmental Protection Agency’s National Priority List Equivalent Sites;
 - A list of related removal actions, as certified by the Department of Health and Environmental Control;
 - Land that is subject to a Voluntary Cleanup Contract with the Department of Health and Environmental Control as of December 31, 2017 or to corrective action under the Federal Resource Conservation and Recovery Act of 1976; or
 - Land that is owned by the Pinewood Site Custodial Trust; and
- It is placed in service in the state during the taxable year.

The bill also establishes the credit is earned in the year in which the solar energy property is placed in service but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year that the credit was able to be taken. A lessor must give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this law if the cost of the solar energy property is provided by public funds.

For the purposes of this law, ‘public funds’ does not include federal grants or tax credits. Further, if the solar energy property with respect to which the credit was claimed is disposed of, taken out of service, or moved out of the state in a year in which the installment of a credit accrues, then the credit expires and the taxpayer may not take any remaining installments of the credit.

S 0329 – Extending Tax Credits for Geothermal Machinery and Equipment

Sponsored by Sen. Cromer

Extends the sunset provision related to the 25 percent state tax credit allowed for the purchase and installation of geothermal machinery and equipment from January 1, 2019, to January 1, 2022.

Coal and Minerals

H 3483 – Coal Combustion Residuals Landfill Regulation

Sponsored by Rep. Hiott

Requires that coal combustion residuals that result from an electric utility, an electric cooperative, a governmental entity, a corporation, or an individual producing electricity for sale or distribution by burning must be placed in a Class 3 solid waste management landfill.

Exceptions listed in the bill are coal combustion residuals that are located contiguous with the electric generating unit, intended to be beneficially reused, placed in beneficial use, or placed in an appropriate landfill owned or operated by the entity that produced the residuals.

Utilities

H 3145 – Rules Regarding Electrical Cooperative Inspections and Audits

Sponsored by Rep. Ott

Authorizes the Office of Regulatory Staff (ORS) to make inspections, audits, and examinations of electric cooperatives, pursuant to current provisions relating to the compliance of electric cooperatives.

Following the completion of an authorized inspection, audit, or examination, the bill states that ORS must report its findings to the management and board of the electric cooperative and attempt to resolve any identified compliance issues with management and the board of trustees. Any individual found in violation of the law regarding when an electric cooperative may and may not disrupt service to residential customers, must make a complaint to ORS for redress.

The bill also amends voting restrictions for electrical cooperative members and enacts time requirements for polling stands to be open in the case of a trustee election. Further, when a race for a cooperative trustee is contested, cooperatives must determine a method for members to vote in the election before the annual meeting day and with reasonable accommodations for working, elderly, disabled, and infirmed members. By May 15 of each year, the board of trustees is required to visibly disclose all compensation and benefits paid to or provided for board members during the previous calendar year on its website.

Finally, the bill gives the Public Service Commission the authority and jurisdiction to resolve any disputed issues arising from an inspection, audit, or examination conducted by ORS.

H 3659 – Establishing the South Carolina Energy Freedom Act

Sponsored by Rep. McCoy

Enumerates specific rights for electrical utility customers, provides for judicial review of the violation of electrical utility customer's rights, and establishes procedures for periodic hearings to review and approve electrical utilities avoided cost methodologies, standard offers, form contracts, and commitment to sell forms.

The bill requires electrical utility companies to file a voluntary renewable energy program for the commission's review and approval, to enumerate program requirements, and to establish a neighborhood community solar program plan. This bill also removes the solar leasing cap and requires a procurement process overseen by an independent evaluator chosen by ORS prior to the construction of a major utility facility.

The measure identifies any independent power producer that is proposing an alternative to the major utility facility as a party to a certification proceeding. The act allows for integrated resource plans to provide for the evaluation of the adoption of renewable energy, energy efficiency, and demand response, as well as to introduce certain reporting requirements.

This bill also amends the definition of “customer-generator” and requires electrical utilities to make net energy metering available to customer-generators until the total installed nameplate generating capacity of net energy metering systems equals at least two percent of the previous five-year average of the electrical utility’s retail peak demand. Lastly, the bill provides for a successor net energy metering tariff.

H 4287 – Regarding Offers for the Purchase of the Public Service Authority

Sponsored by Rep. Lucas

Authorizes the Public Service Authority (PSA) Evaluation and Recommendation Committee to receive necessary information to evaluate current bids and receive a final written contractual offer for the purchase of part or all of PSA.

The final offer must be determined to be in the best interest of the state and its taxpayers and ratepayers. Further, the committee is tasked with submitting this offer to the general assembly for approval. The bill recommends that any offer the Committee provides to the general assembly includes:

- Final approval of the contract is contingent upon approval by the general assembly;
- The state and purchaser will comply with the obligations and covenants enumerated by law, which dictate rate and charge obligations of PSA as well as protection provisions of those acquiring notes, bonds, and evidences of indebtedness of PSA;
- The purchaser agrees to provide long-term resource planning and a diversified generation portfolio to prevent long term rate fluctuations;
- The purchaser agrees to provide suitable and reasonable protections to PSA employees and retirees;
- The proposed location for the purchaser’s headquarters;
- The purchaser agrees to comply with federal and state environmental protections regarding the recreational assets of PSA, and maintain their present condition, quality, and accessibility; and
- The purchaser agrees to partner with the state for future economic development projects.

The bill further permits the Committee to hire professional services to evaluate and negotiate on behalf of the Committee with qualified bidders. The evaluation of bids is required to include the following criteria:

- How the purchaser intends to resolve the debt repayment of the two abandoned reactors and how this proposed resolution would impact rates;
- How the aforementioned proposal may impact PSA’s contract with Central Energy;
- The coordination with PSA for the provision of necessary documents so that the Committee can effectively evaluate proposals; and
- An assessment of the impact of these proposals on PSA bond covenants, as well as a recommendation as to whether bond counsel should be retained to analyze those bond covenants.

Following these negotiations and the Committee’s determination of a best and final offer, the cochairmen of the Committee must submit an estimate of the expenses associated with hiring the necessary experts to carry out the obligations of this bill to the Chairman of the House Ways and Means Committee and the Chairman of the Senate Finance Committee. The co-chairmen must also notify the Speaker of the House of Representatives and the President of the Senate of their decision in writing, along with a copy of the contract and all supporting documents.

According to the bill, if the general assembly is in regular session when this notification is provided, it is required to remain in session until a decision regarding the contract has been made. If the general assembly is not in regular

session, the general assembly is required to return in statewide session at the call of the Governor upon receipt of the Committees recommendation. If the contract is approved by both bodies, the Governor and any other appropriate officials will sign the contract of sale on behalf of the state and execute the deeds and any other necessary documents upon the closing of the sale. Net proceeds from the sale will be deposited in the General Fund, pending further action by the general assembly.

S 0401 – Assigning Costs Related to Relocating Water and Sewer Lines

Sponsored by Sen. Campbell

Requires an entity that undertakes a transportation improvement project to bear the costs related to relocating water and sewer lines, up to four percent of the original construction bid amount for a large public water utility or large public sewer utility.

The bill also requires the Department of Transportation include metrics on utility relocation in its annual accountability report.

S 0847 – Duke Energy Commendation

Sponsored by Sen. Alexander

Congratulates Duke Energy’s “World of Energy” at Oconee Nuclear Station upon the occasion of its 50th anniversary and to commend it for its many years of service to its community.

Environmental Legislation

Air Quality and Pollution Control

H 3127 – Establishing the Mold Abatement and Remediation Study Committee

Sponsored by Rep. Dillard

Creates a Mold Abatement and Remediation Study Committee.

The committee must study public policy issues related to mold in public buildings in the state, ascertain the impact of mold on public health, and propose policy to remediate, abate and proactively prevent mold in public buildings, among other responsibilities, according to the bill.

Emergency Management and Homeland Security

H 4393 – Establishing Natural Disaster Resiliency Week

Sponsored by Rep. Spires

Recognizes September 1-7, 2019 as “Natural Disaster Resiliency Week” In South Carolina in order to raise public awareness about the continuing need to plan for future disasters by instituting a pre-disaster mitigation strategy.

Inland Water Resource Management and Conservation

H 3698 – Setting 30 Day Limit for Certain Dock Permits

Sponsored by Rep. Bailey

Amends existing law for individual navigable waters permits for docks located in the eight coastal counties but outside of critical areas, such that a coastal zone consistency certification is deemed approved if certification review is not completed within 30 days of an administratively complete application.

S 0675 – Expanding ReWa’s Service Territory

Sponsored by Sen. Turner

Adds the “Southern Greenville” area of Greenville County to Renewable Water Resources (ReWa) service territory and expresses the general assembly’s intent to designate a map as the document of record on which ReWa’s amended boundary lines are delineated.

The bill also establishes that no residential or commercial entity located within the Southern Greenville extended territory is required to tap into the services provided by ReWa unless the entity does so voluntarily or has no other Department of Health and Environmental Control-approved method for disposal.

Land Management and Conservation

H 4012 – Land Resources Conservation Commission Amendments

Sponsored by Rep. Hixon

Renames the Land Resources and Conservation Districts to the Land, Water, and Conservation Division and declares it is directly accountable to the director of the Department of Natural Resources.

The bill further amends existing law to clarify that agencies of the state which have jurisdiction over or is charged with the administration of any state-owned lands and agencies of any county or other governmental subdivision of the state which has jurisdiction over or be charged with the administration of any county owned or other publicly owned lands, lying within the boundaries of any district organized under the law, must cooperate to the fullest extent with the commissioners of such districts in the effectuation of programs and operations undertaken by the commissioners under relevant statute. The commissioners of such districts must be given free access to enter and perform work upon such publicly owned lands, according to the bill.

Finally, current law is amended such that reporting the financial needs of the respective soil and water conservation districts is necessary only to the Department of Natural Resources rather than the Governor.

H 4013 – Amendments to the South Carolina Geological Survey Unit

Sponsored by Rep. Hixon

Establishes that the state geologist in charge of the South Carolina Geological Survey Unit must be hired, rather than appointed, by the Director of the Department of Natural Resources, and he or she must have graduated from an accredited college or university with a full curriculum in geology and had at least eight years of practical work experience, academic, governmental, or industrial, in geology.

The bill also declares that the state geologist must travel throughout the state so as to make himself familiar with the geology, geologic hazards, and mineral resources of each area. The unit is responsible for evaluating mineral resources and making surface and subsurface data available to governmental agencies, private business, and the public by disseminating published geologic information as bulletins, maps, economic reports, and related series and open file reports. It must also provide unsolicited advice to other state and governmental agencies concerning geologic hazards including, but not limited to, earthquakes, ground liquefaction, sinkhole development and collapse, landslide development, and coastal vulnerability, according to the bill.

Reorganization and Coordination

H 4011 – Modifying the Duties and Responsibilities of the Department of Natural Resources

Sponsored by Rep. Hixon

Revises existing statute concerning the Department of Natural Resources duties to include formulating a State Water Plan, ensure representation of the state's interstate water issues, and recommend any laws or regulation required to implement prudent policy.

Federal grants, gifts, and monies are also now codified for the department's use. The department is also granted the power to ensure adequate supplies of surface and groundwaters of suitable quality for all uses, including domestic, municipal, agricultural, and industrial and to ensure water availability for recreation and commercial needs. The department is further authorized to conduct studies on saltwater intrusion into groundwater and surface water and to protect that state's fisheries and other aquatic resources.

Solid Waste

H 4342 – Resolution Recognizing Zero Tolerance for Litter Month

Sponsored by Rep. Johnson

Recognizes the month of April 2019 as “Zero Tolerance for Litter Month” in South Carolina and to urge the state’s law enforcement officers to work together this month and throughout the year for a cleaner community.

TENNESSEE

Tennessee adopted 28 energy and environmental bills during the 2019 legislative session. Notably, SR 19 rebuked TVA’s decision to retire the Bull Run Fossil Plant. In a similar vein, SJR 192 expressed support for the enactment of legislation that requires all board committee meetings of the Tennessee Valley Authority Board of Directors to be open to the public.

Energy Legislation

Coal and Minerals

HB 925/SB 781 – Removing Mine Rescue Responsibility from the Department of Labor and Workforce Development

Sponsored by Rep. Lamberth / Sen. Johnson

Relieves the commissioner of labor and workforce development of responsibilities concerning mine rescue operations and deletes statutes establishing the mine rescue corps within the department of labor and workforce development.

SR 19 – Condemning TVA’s Decision to Retire Bull Run Fossil Plant

Sponsored by Sen. McNally

Expresses disagreement and displeasure with TVA’s decision to retire Bull Run Fossil Plant in Anderson County.

Emergency Management and Homeland Security

HB 156/SB 264 – Defining Criminal Offenses Against Critical Infrastructure

Sponsored by Rep. Whitson / Sen. Niceley

Revises offense regarding destruction or interference with utility lines, fixtures or appliances, or property utilized by railroads to apply to certain activities involving critical infrastructure.

Establishes the new offense of “critical infrastructure vandalism” and defines “critical infrastructure” as any of the following services provided to the general public:

- Telephone, telegraph, television, internet, or other telecommunication services;
- Electric, heat, natural gas, or other power or energy services;
- The distribution of crude or refined liquid petroleum products or natural gas, and the pipelines, pumping stations, terminals, and equipment necessary for operation of the facility;

- Water, wastewater, or sewer services; and
- Railroads and other transportation services.

According to the bill, it is now a Class E felony offense for any unauthorized person, group, company, or organization to knowingly injure, remove, destroy, break down, or otherwise interrupt or interfere with a pipeline, pumping station, terminal, equipment, or facility, whether in operation, idle, or under construction, that transports, stores, pumps, or distributes crude or refined liquid petroleum products or natural gas. This bill also adds that it is a Class E felony offense for a person, group, company, or other organization to cause, aid, or coerce another person, group, company, or organization to engage in any of the conduct described above concerning vandalism of utility property.

HB 308/SB 306 – Amending Prohibition of Unmanned Aircraft Flight Over Critical Infrastructure

Sponsored by Rep. Hulsey / Sen. Lundberg

Adds communication service facilities to the types of facilities that are considered critical infrastructure facilities for purposes of the prohibition on the use of unmanned aircraft for surveillance.

HB 551/SB 624 – Facilitating Business Rapid Response to State Declared Disaster Act

Sponsored by Rep. Hazlewood / Sen. Watson

Establishes obligations and protections for certain out-of-state businesses and employees who are in this state responding to a disaster or emergency, as discussed below.

The act defines “responding out-of-state business” as a business entity that, except for disaster or emergency related work, has no presence in this state, conducts no business in this state, and whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency related work in the state; and includes a business entity that is affiliated with a registered business solely through common ownership. “Responding out-of-state employee” is defined as an employee of a responding out-of-state business or registered business who does not work in the state, except for disaster or emergency related work. This bill defines “registered business” as a critical infrastructure business entity that is currently registered to do business in this state.

Per the legislation, responding out-of-state businesses and responding out-of-state employees must pay the following transaction taxes and fees, when the tax or fee is determined, collected, remitted, and reported by others duly registered and required to collect such taxes and fees:

- Fuel excise taxes imposed by the Petroleum Products and Alternative Fuels Tax Law;
- State and local sales and use taxes imposed by the Retailers’ Sales Tax Act;
- Local hotel occupancy taxes;
- Taxes imposed on the purchase or consumption of intoxicating liquors, beer, and other alcoholic beverages; and
- Any other transaction tax or fee assessed, collected, or imposed on specific transactions or activities in the usual course of business without imposing any obligation on a responding out-of-state business or responding out-of-state employee to register, file a return, or otherwise self-report and remit the tax or fee due.

This bill specifies that the above provisions do not limit or otherwise alter or amend the power of a court to exercise personal or in rem jurisdiction over responding out-of-state businesses, responding out-of-state employees, or their property, but that jurisdiction may not be used as a basis to impose a tax, fee, or other obligation contrary to the protections provided by this bill. This bill further provides that it does not confer any immunity from any criminal prosecution in any court of this state.

Under this measure:

- A responding out-of-state employee:
 - Does not establish residency or a presence in the state that would require that person or that person's employer to administer, file, or pay taxes or fees or to be subjected to pay any other state or local tax or fee, except as expressly provided for in this bill; and
 - When holding a license, certificate, or other permit issued by the state of the employee's permanent residence or any other state evidencing the meeting of qualifications for professional, mechanical, or other skills, is deemed licensed, certified, or permitted by the state to render disaster or emergency related work involving such skill and is not required to register, report, or pay any tax or fee related to such licensure, certification, or permitting in this state; and
- A responding out-of-state business does not establish a level of presence that would require that business to register, file, or remit state or local taxes or that would subject that business to any state licensing or registration requirements.

The bill specifies that except as it otherwise provides, the above-described protections should be interpreted broadly to relieve a responding out-of-state business and a responding out-of-state employee from any obligation to provide documentation, registration, tax, fee, or other submission or filing with the state or its political subdivisions, including, but not limited to, the following:

- Unemployment insurance;
- State and local occupational licensing fees;
- Registration for state and local sales and use tax, or any requirement to collect tax, file returns, or otherwise self-report or remit any sales or use tax to the state as a result of or in relation to any disaster or emergency related work;
- State and local ad valorem tax on tangible personal property brought into the state temporarily for use in disaster or emergency related work and subsequently removed from the state, such property being deemed not to have acquired a situs in the state. However, any tangible personal property sold, transferred, or leased to a person other than a responding out-of-state business or responding out-of-state employee will be deemed to acquire situs in this state on the date of such sale, transfer, or lease and thereafter will be subject to use tax, ad valorem tax, and any other tax imposed directly or indirectly on such property;
- Any registration or regulation of businesses or public utilities by the secretary of state, public utilities commission, or any other agency or instrumentality of the state; and
- The Excise Tax Law of 1999; the Franchise Tax Law of 1999; the Business Tax Law; and any other state or local tax on or measured by, in whole or in part, net or gross income or receipts, so that all disaster or emergency related work of the responding out-of-state business that is conducted in this state will be disregarded with respect to any filing requirements for such tax including the filing required for a unitary or combined group of which the responding out-of-state business may be a part. Also, for the purpose of apportioning income, revenue, or receipts the disaster, or emergency related work performed by a responding out-of-state business in this state will not be considered sourced to this state and will not otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state.

Finally, the act provides that in the event a responding out-of-state business or a responding out-of-state employee either remains in the state after the completion of emergency or disaster related work or otherwise ceases to qualify as a responding out-of-state business or responding out-of-state employee, such business or individual loses the protections of this bill effective as of the first date on which the business or individual no longer qualifies as a responding out-of-state business or responding out-of-state employee.

Energy Efficiency

HB 476/SB 144 – Sunset Extension for the Energy Efficient Schools Council and Audit Review

Sponsored by Rep. Daniel / Sen. Roberts

Extends the energy efficient schools council to June 30, 2023.

The bill also requires the council and the department of education to appear before sunset review committee in 2019 to discuss progress made in addressing the findings of its 2018 audit.

Reorganization and Coordination

HB 488/SB 156 – Sunset Extension for the Southern States Nuclear Compact

Sponsored by Rep. Daniel / Sen. Roberts

Extends the Southern States Nuclear Compact to June 30, 2027.

Utilities

HB 1241/SB 1168 – Public Utility Commission Gift Prohibition Clarification

Sponsored by Rep. Marsh / Sen. Swann

Removes certain prohibitions concerning gifts made by commissioners of the Tennessee public utility commission that are different from other applicable gift prohibitions found in law.

The bill deletes the provisions of present law that apply only to gifts made to Tennessee public utility commission members thereby clarifying that the prohibition on gifts made by lobbyists and employers of lobbyists, and the attendant penalties, apply to Tennessee public utility commission members and their immediate family members

HB 1242/SB 1095 – Requiring Discontinuation of Service Procedures

Sponsored by Rep. March / Sen. Dickerson

Requires the governing body of a utility within the Nashville/Davidson county area, in conjunction with the utility management team, to establish a policy governing the discontinuation of service for nonpayment of service.

The policy must follow service practice standards and best practices for similarly situated utilities, according to the bill.

HB 165/SB 178 – Forced Public Sewer System Connection Prohibition

Sponsored by Rep. Hazlewood / Sen. Gardenhire

Prohibits the Commissioner of Environment and Conservation from denying a permit for a septic system solely because a public sewer system is accessible in certain circumstances.

The bill further requires that for residential real estate sales involving property consisting of one to four residential units, the potential future obligation to connect to the public sewer system must be disclosed by the seller to the purchaser in the same manner as, and subject to the same remedies, as other known defects.

HB 202/SB 430 – Training and Education Requirements for Utility Board Commissioners

Sponsored by Rep. Vaughan / Sen. Bell

Requires online training and continuing education providers for municipal utility board commissioners to provide a certificate of completion or attendance that must be submitted by the commissioner to the municipality upon the completion of required training.

HB 295/SB 1190 – Municipal Electrical Inspector Requirements

Sponsored by Rep. Carr / Sen. White

Requires a municipal, county, or state-employed electrical inspector to be certified by the state fire marshal, beginning January 1, 2020.

Municipal, county, or state electrical inspectors employed or under contract through a professional corporation as a commissioned deputy electrical inspector on January 1, 2020, will be deemed to have met the certification qualifications for three years from the date of certification. On the expiration date of the three-year period, each electrical inspector deemed to meet such qualifications must be recertified by the fire marshal. The state fire marshal will issue certification if the applicant:

- Files an application on a form developed by the state fire marshal;
- Pays a fee; and
- Provides a resolution by the governing body of the employing municipality or county, or a certification from the employing state agency, affirming that the applicant is performing the applicant's duties satisfactorily.

This bill requires the state fire marshal to promulgate rules and regulations that require proof satisfactory to the marshal that the candidate understands all applicable electrical codes. The fire marshal must establish training courses for governmental employees with electrical responsibilities and may revoke the certification of any electrical inspector. Under this bill, an electrical inspector who knowingly fails to enforce state building regulations, and the intentional failure poses an immediate danger to the life, safety, or welfare of another, commits a Class B misdemeanor.

HB 376/SB 426 – Recouping Costs of Deploying Upgraded Measurement Devices

Sponsored by Rep. Boyd / Sen. Gardenhire

Authorizes a public utility to request, and the Tennessee public utility commission to authorize, a mechanism to recover the operational expenses, capital costs, or both, related to replacement of or upgrades to usage measurement devices if found by the commission to be in the public interest.

HB 377/SB 308 – Amending Rules for Acceptance and Distribution of Charitable Donations Through Utility Bills

Sponsored by Rep. Boyd / Sen. Lundberg

Revises provisions governing utility round-up programs and other similar programs for charitable donations through utility bills.

Specifically, the bill establishes the following:

- A utility that utilizes an authorized program on or after January 1, 2021, must not enroll any new customer, or any existing customer who is not a current participant in the program as of January 1, 2020, into the program without the express consent of the customer;
- A customer who on January 1, 2020, is an existing participant in, or who on or after January 1, 2020, becomes a participant in an authorized program may opt out of the program by providing notice to the utility of the customer's desire to cease participation in the program;
- Upon receiving an opt out notice from a customer, the utility must remove the customer from enrollment in the program no later than the first day of the customer's next regular billing cycle that begins no less than 30 days after the date of the customer's opt out notice;
- A utility that on the effective date of this bill utilizes an authorized program must send a written notice to each municipal utility system customer no later than November 1, 2020, that contains, but is not limited to, the following information:

- A statement that the municipal utility system utilizes the program and a description of the program;
- Notification that a customer whose bill is currently rounded up by the utility has the right to opt out of participation in the program;
- Notification that a customer whose bill is not currently rounded up by the utility may opt into participation in the program; and
- Contact information for the utility and instructions on how the customer may contact the utility to opt into or out of participation in the program;
- The written notice may be provided to the customer by electronic means and may accompany a regular billing statement, at the discretion of the utility; and
- A utility that utilizes a program and that maintains a website that is accessible by the general public must publish the information required above in a conspicuous location on the website by November 1, 2020, and throughout the duration of the utility’s utilization of the program.

HB 381/SB 391 – Utility District or Authorities Right to Contract for Services

Sponsored by Rep. Marsh / Sen. Briggs

Authorizes a utility district and utility authority to contract for certain construction management services during local construction projects or additions to existing buildings.

HB 448/SB 116 – Underground Utility Damage Enforcement Board Extension and Study

Sponsored by Rep. Daniel / Sen. Roberts

Extends the underground utility damage enforcement board to June 30, 2023.

The bill also directs the division of state audit within the office of the comptroller of the treasury to conduct a timely study on the allocation of employees from the Tennessee public utilities commission to the underground utility damage enforcement board.

HB 603/SB1366 – Allowing Utilities to Enter Certain Coverage Agreements

Sponsored by Rep. Marsh / Sen. Yager

Authorizes municipal utility systems providing water, sewer, or natural gas service, utility districts created under the Utility District Law of 1937, and any utility district created by a public or private act to enter into agreements with companies to provide water, sewer, or natural gas leak protection bill coverage, insurance, or service agreements for customers and to offer their customers water line, sewer line, or natural gas line damage protection coverage, insurance, or service agreements for customer-owned water, sewer, or natural gas lines.

The bill also authorizes municipal utility systems and utility districts to include the costs for the coverage, insurance, or service agreements on the monthly utility bills of their customers. The act further authorizes municipal utilities that provide electric service under the Municipal Electric Plant Law of 1935 to assist its utility customers in installing or maintaining fixtures, devices, appliances, apparatus, and equipment of all kinds and character and, in connection therewith, to purchase, acquire, lease, sell, distribute, incentivize, insure, make loans, provide service contracts, enter into agreements, contract with third parties, and repair such fixtures, devices, appliances, apparatus, and equipment and sell, assign, transfer, endorse, pledge, and otherwise dispose of notes or other evidences of indebtedness. Municipal utilities that provide electric service are authorized to add periodic payments to customers’ monthly bills to cover the cost of any such transactions and to terminate utility service for non-payment, according to the bill.

HB 634/SB 1460 – Water Sales Tax Exemption for Certain Horticultural Applications

Sponsored by Rep. Halford / Sen. Bailey

Extends to “water” the sales tax exemption that applies to the sale to a qualified farmer or nurseryman of electricity, natural gas and liquefied gas, including, but not limited to, propane and butane used directly in the production of food or fiber for human or animal consumption or to aid in the growing of a horticultural product for sale.

HB 901/SB 481 – Codifying Assault on a Utility Employee

Sponsored by Rep. Jernigan / Sen. Gardenhire

Designates that knowingly causing physical injury to a person who is employed by or on behalf of any utility, while the utility employee is performing a duty within the scope of the utility employee’s employment and has provided identification when asked by stating the employee’s name, employer’s name, and purpose of the work is aggravated assault, a class A felony.

A “utility” is any person, municipality, county, cooperative, board, commission, district or entity created or authorized to provide electricity, natural gas, water, sanitary sewer service, telephone service, or any combination thereof, for sale to consumers in any particular service area, whether or not regulated by the Tennessee public utility commission.

HJR 630 – Memorializing Memphis Light, Gas and Water

Sponsored by Rep. Parkinson

Congratulates the Board of Commissioners, administration, and dedicated professionals of Memphis Light, Gas and Water (MLGW) on the celebration of MLGW’s eightieth anniversary.

SJR 192 – Supporting Public TVA Meetings

Sponsored by Sen. Yager

Expresses support for the enactment of legislation that requires all board committee meetings of the Tennessee Valley Authority Board of Directors to be open to the public.

Environmental Legislation

Air Quality and Pollution Control

HB 466/SB 135 – Sunset Extension for the Air Pollution Control Board

Sponsored by Rep. Daniel / Sen. Roberts

Extends the air pollution control board to June 30, 2025.

Environmental Health Services

HB 259/SB 916 – Discharge Permit Requirements

Sponsored by Rep. Marsh / Sen. Southerland

Establishes that an alternatives analysis required by rule of the department of environment and conservation as part of the process of obtaining a discharge permit for a transportation project does not need to include alternative road locations but must include other measures to avoid and minimize impacts to resource values.

Inland Water Resource Management and Conservation

HB 437/SB 105 – Ocoee River Recreation and Development Fund Board Extension

Sponsored by Rep. Daniel / Sen. Roberts

Extends the Ocoee River Recreation and Economic Development Fund Board to June 30, 2021.

HB 450/SB 118 – Sunset Extension for the Wastewater Financing Board

Sponsored by Rep. Daniel / Sen. Roberts

Extends the wastewater financing board to June 30, 2025.

Land Management and Conservation

HB 94/SB 58 – Outdoor Education and Recreation Grant Program

Sponsored by Rep. Halford / Sen. Gilmore

Requires the commissioner of education, with input from the executive director of the wildlife resources agency, to create and administer a grant program for outdoor environmental, ecological, agricultural, or other natural resource-based education and recreation programs. The opportunity to receive grants from an account, established by this bill and described below, will be available to public agencies, private nonprofit organizations, formal school programs, nonformal after-school programs, and community-based programs.

The bill further requires:

- The commissioner to set priorities and develop criteria for awarding grants, including priorities and criteria listed in the bill;
- That programs that provide outdoor education opportunities to schools be fully aligned with the state's academic standards to be eligible for a grant;
- That the grant program be phased in, beginning with the schools and students with the greatest needs; and
- That the grant program focuses on students who qualify for free and reduced-price lunches who are more academically at risk or more likely to drop out of school.

SJR 213 – Supporting the Formation of a Statewide Wine Trail

Sponsored by Sen. Yager

Encourages the Department of Agriculture and representatives of vineyard owners and the retail wine industry in Tennessee to discuss the formation of a statewide wine trail.

Solid Waste

HB 219/SB 923 – Solid Waste Disposal Definitions and Requirements

Sponsored by Rep. Hulseby / Sen. Southerland

Specifies that gasification facilities and pyrolysis facilities are not solid waste facilities or incinerators, post-use polymers and recoverable feedstocks are not solid waste, and gasification facilities and pyrolysis facilities are subject to any other applicable environmental, health, and safety requirements for such facilities.

Texas adopted 89 energy and environmental bills during the 2019 legislative session. There are many notable bills from this year's legislature—cybersecurity was one important topic. SB 64 revises various cybersecurity requirements for state agency information resources, including oversight of cybersecurity practices and the state's electric grid. SB 936 allows for cybersecurity monitoring of certain electric utilities.

Energy Legislation

Alternative Energy Development

HB 2845 – Requiring Decommissioning Provisions in Wind Power Facility Agreements

Sponsored by Sens. Campbell and Perry

Establishes requirements for wind power facility agreements, including provisions related to decommissioning and facility removal bonds.

The bill requires a wind power facility agreement to provide that the grantee was responsible for removing wind power facilities from the landowner's property. The grantee must safely clear, clean, and remove:

- Each wind turbine generator, each substation, all liquids contained in a generator or substation, and each installed overhead power or communications line;
- Each tower and pad-mount transformer foundation from the ground at least three feet from the grade of the affected land; and
- Each buried cable installed in the ground at least three feet below the grade of the affected land.

The agreement provides that, at the request of the landowner, the grantee clears, cleans, and removes each road constructed on the property. If reasonable, the agreement also provides that the grantee, at the request of the landowner, must remove all rocks over 12 inches in diameter excavated during the decommissioning process, return the property to a tillable state using certain methods, and return the surface as near as possible to the same condition as before the grantee dug holes.

For the removal of towers, pad-mount transformers, buried cables, roads, and excavated rocks, the grantee must ensure that holes created by the removal are filled with topsoil.

Coal and Minerals

HB 3226 – Extending the Period for Dissolving an Inactive Drill Site

Sponsored by Sen. Birdwell

Changes the duration of a Mineral Interest Pooling Act unit so that the unit was automatically dissolved if no production or drilling operation has occurred on the unit or its surface location within two years of the unit's effective date.

HB 3838 – Offer Disclosure for Mineral or Royalty Interest

Sponsored by Sen. Birdwell

Requires a mineral or royalty interest conveyance instrument specified by the bill to include a conspicuous statement printed at the top of each page in a type size of at least 14 points.

The statement is required to provide that the offer was not a lease and that the owner would be selling all or a portion of the owner's mineral or royalty interests. Conveyance instruments without such information would be void.

HB 3913 – Exempting Certain Personal Data Disclosure as it Relates to Flood Control Districts

Sponsored by Sen. Alvarado

Exempts certain personal information obtained by flood control districts connection with operations related to a declared disaster or flood from disclosure under the state's public information laws.

The exception applies only to flood control districts located in a county with a population of 3.3 million or more (Harris County).

The bill removes requirements for public availability information containing:

- A person's name;
- A home or business address;
- A home or mobile telephone number;
- An email address;
- Social media account information; and
- A Social Security number.

Emergency Management and Homeland Security

HB 3557 – Civil and Criminal Liability Relating to Critical Infrastructure

Sponsored by Sen. Birdwell and Fallon

Creates the Critical Infrastructure Protection Act and establishes the felony offenses of damage or intent to damage a critical infrastructure facility or related construction work and provides civil penalties related to such offenses.

The bill makes it a crime for a person to, without the effective consent of the owner, intentionally or knowingly damage, destroy, vandalize, deface, or tamper with a critical infrastructure facility or impede, inhibit, or otherwise interfere with its operation. Under the law, this offense constitutes a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000). The bill also declares it a crime to, without the effective consent of the owner, enter or remain on or in a critical infrastructure facility with the intent to damage, destroy, vandalize, deface, or tamper with the facility or impede, inhibit, or otherwise interfere with its operation. This offense is now a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

This bill requires a court to sentence a corporation or association found guilty of an offense under the legislation to pay a fine of \$1 million. Regardless of the relationship between the organization and the person, an organization that compensated a person for engaging in conduct occurring on the premises of a critical infrastructure facility must be considered vicariously liable to the property owner for damages arising from the conduct if it constitutes an offense.

SB 475 – Electric Grid Security Advisory Panel

Sponsored by Reps. Hernandez and Flynn

Establishes the Texas Electric Grid Security Council as an advisory body in order to facilitate the development and dissemination of best security practices for the electric industry, including the generation, transmission, and distribution of electricity.

The council is composed of:

- The commissioner of the Public Utility Commission, who would also serve as the presiding officer of the council;
- The chief executive officer of Electric Reliability Council of Texas (ERCOT) or a representative; and
- The governor or a representative designated by the governor.

According to the bill, council members may apply for a secret security clearance or an interim security clearance granted by the federal government. A member of the council may not be allowed access to classified information or participate in council activities involving such information unless the member had a secret security clearance previously established.

On request of the governor, the lieutenant governor, or the chairs of the House or Senate committees with jurisdiction over energy utility regulation, the council must issue to the requestor recommendations regarding:

- The development of educational programs or marketing materials to promote the development of a grid security workforce;
- The development of grid security best practices;
- Preparation for events that threatened grid security; and
- Amendments to the state emergency management plan to ensure coordinated and adaptable response and recovery efforts after events that threatened grid security.

SB 494 – Suspending Certain Open Government Laws During Emergencies

Sponsored by Rep. Walle

Revises requirements related to exceptions to open meetings requirements in certain emergency situations.

The bill allows a governmental body to temporarily suspend requirements related to the handling of public information requests during certain emergencies.

It decreases from at least two hours to one hour the posting time for notice of an emergency meeting or emergency addition to an agenda of a governmental body in an emergency or when there was an urgent public necessity. The notice would have to concern a meeting to deliberate or take action on the emergency or urgent public necessity, or a supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting that had already posted the statutorily required notice.

The bill specifies conditions under which an emergency meeting or an emergency addition to an agenda would exist to include an imminent threat to public health and safety or a reasonably unforeseeable situation, including:

- Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
- Power failure, transportation failure, or interruption of communication facilities;

- Epidemic; or
- Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Energy Efficiency

HB 2546 – Energy Code Modifications to Industrialized Housing

Sponsored by Rep. Guillen

Allows the state to utilize energy code modifications previously only available to site-built homes.

The bill extends the benefits of energy code modifications to industrialized housing by allowing state agencies to implement local amendments to the energy code where the housing would be constructed.

Natural Gas and Petroleum

HB 2127 – Licensure and Registration for Persons Working with Compressed or Liquefied Natural Gas

Sponsored by Sen. Birdwell

Requires a person, unless otherwise provided by law or by Railroad Commission of Texas rule, to obtain a license from the railroad commission to engage in any of the following activities:

- Work that includes the assembly, repair, testing, sale, installation, or subframing, rather than the manufacture, assembly, repair, testing, sale installation or subframing, of CNG cylinders or LNG containers for use in this state; or
- Systems work that includes the installation, modification, or servicing, rather than the sale, installation, modification, or servicing, of CNG or LNG systems for use in this state, including the installation, modification, or servicing by any person, except a political subdivision, of a CNG or LNG motor fuel system or mobile fuel system on a vehicle used in the transportation of the general public.

Further, the act requires the railroad commission to adopt rules providing for the registration of persons engaged in the manufacture of CNG cylinders or LNG containers for use in Texas.

HB 2675 – Removing Oil and Gas Regulations and Cleanup Fund Cap

Sponsored by Sen. Birdwell

Removes the cap on the oil and gas regulation and cleanup fund whereby strengthening the Railroad Commission's ability to finance critical projects.

HB 2714 – Licensure Requirement Modifications for Liquefied Petroleum Gas Activities

Sponsored by Sen. Birdwell

Removes the licensure requirement for liquefied petroleum gas (LP-gas) container manufacturers.

Instead, a person is now required to register with the Railroad Commission of Texas (RRC) in order to engage in the manufacture or fabrication of containers for use in the state. Registration must be renewed annually.

The bill also eliminates statutorily defined categories of LP-gas activities for which a person may apply for licensure and instead requires the RRC to establish by rule license categories for LP-gas activities.

HB 2771 – TCEQ Authorization to Issue Permits for Certain Oil and Gas Discharges

Sponsored by Sen. Hughes

Transfers certain responsibilities of the Railroad Commission of Texas relating to regulation of discharges of produced water, hydrostatic test water, and gas plant effluent into water resulting from the development of oil, natural gas, or geothermal resources to the Texas Commission on Environmental Quality (TCEQ).

The bill also transfers any obligations, contracts, property, records, and funds appropriated by the legislature relating to such regulation. The Railroad Commission (RCC) will continue to carry out duties related to such regulation until the regulatory authority of the National Pollutant Discharge Elimination System (NPDES) was delegated to TCEQ.

TCEQ is permitted to act to ensure an orderly transfer of powers relating to the bill, including hiring employees and amending its memorandum of understanding with the Railroad Commission, and its required to submit to the U.S. Environmental Protection Agency by September 1, 2020, a request to supplement or amend the Texas Pollutant Discharge Elimination System to include delegation of NPDES permit authority for the discharge of oil and gas wastes to TCEQ.

The bill takes effect September 1, 2019, and applies only to an application pending on or after the effective date of the delegation of permit authority from NPDES to TCEQ.

HB 3954 – Motor Fuel Transfer Taxation

Sponsored by Sen. Hinojosa

Expands the definition of a bulk transfer qualifying for exclusion from motor fuels tax to include transfers to and from a motor fuel storage facility within a bulk transfer/terminal system.

A motor fuel storage facility is redefined as a storage facility supplied by pipeline or marine vessel lacking a rack for removal of motor fuel by any means of conveyance that was outside the bulk/transfer terminal system.

HB 864 – Relating to Pipeline Incidents

Sponsored by Sen. Birdwell

Amends the Utilities Code to require the Railroad Commission of Texas (RRC) by rule to require a distribution gas pipeline facility operator, after a pipeline incident involving the operator's pipelines, to notify the RRC of the incident before the expiration of one hour following the operator's discovery of the incident and to provide certain information to the RRC.

The bill requires the RRC to retain state records of the RRC regarding a pipeline incident perpetually, and it expands the gas pipeline safety standards and rules for which the RRC may assess an administrative penalty for a violation.

HB 866 – Prohibition of Certain Materials for Pipeline Construction

Sponsored by Sen. Birdwell

Amends the Utilities Code to prohibit a distribution gas pipeline facility operator from installing as part of the operator's underground system a cast iron, wrought iron, or bare steel pipeline.

The bill directs the Railroad Commission of Texas (RRC) by rule to require the operator of a distribution gas pipeline facility system to develop and implement a risk-based program for the removal or replacement of underground distribution gas pipeline facilities and annually remove or replace at least eight percent of the facilities posing the greatest risk in the system and identified for replacement under the program.

The legislation requires a distribution gas pipeline facility operator to replace any known cast iron pipelines installed as part of the operator's underground system not later than December 31, 2021, and the bill further expands the gas pipeline safety standards and rules for which the RRC may assess an administrative penalty for a violation.

Reorganization and Coordination

HR 1160 – Urging Congress to Support the United States-Mexico-Canada Agreement

Sponsored by Reps. Craddick, Cain, Zerwas, and Anchia

States that in 2017, Texas energy exports to Canada and Mexico totaled almost \$17 billion; the USMCA will promote the stability of this industry by preserving and expanding market integration for greater certainty, efficiency, and

interregional investment in order to urge the U.S. Congress to unite in bipartisan support for the ratification of the United States-Mexico-Canada Agreement.

SB 1587 – Delegating Powers to the RCC

Sponsored by Rep. Ashby

Amends the current code to delegate to the Railroad Commission of Texas (RCC) all purchasing functions relating to purchases under the Texas Uranium Exploration, Surface Mining, and Reclamation Act and the Texas Surface Coal Mining and Reclamation Act.

SB 2119 – Transferring Regulation of Motor Fuel Programs from TDA to TDLR

Sponsored by Reps. Goldman and Herrero

Transfers the regulatory responsibility for motor fuel metering and motor fuel quality from the Texas Department of Agriculture (TDA) to the Texas Department of Licensing and Regulation (TDLR), and eliminates certain regulatory provisions pertaining to distributors, jobbers, suppliers, and wholesalers of gasoline.

Utilities

HB 1397 – Rider Approval by Non-ERCOT Utilities

Sponsored by Sen. Nichols

Authorizes the Public Utility Commission of Texas to approve a rider submitted by a non-ERCOT (Electric Reliability Council of Texas) utility for an electric generation facility.

The goal of a rider is to reduce regulatory lag – the time period between the date that infrastructure is placed in service and the date a utility may start recovering its investment.

HB 1595 – Advanced Metering Amendments for Non-ERCOT Areas

Sponsored by Sen. Hughes

Amends current law relating to the deployment of advanced metering and meter information networks in certain non-ERCOT areas.

An electric utility subject to this amendment that elects to deploy advanced metering and meter information networks may recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks. The commission must ensure that any deployment plan approved under this measure and any related customer surcharge:

- Are not applicable to customer accounts that receive service at transmission voltage; and
- Are consistent with commission rules related to advanced metering systems regarding:
 - Customer protections;
 - Data security, privacy, and ownership; and
 - Options given consumers to continue to receive service through a non-advanced meter.

Finally, the act requires an electric utility subject to this legislation that elects to deploy an advanced meter information network must deploy the network as rapidly as practicable to allow customers to better manage energy use and control costs.

HB 2263 – Removing Power of GLO to Sell Directly to Certain Public Customers

Sponsored by Sen. Hancock

Removes the authorization of the commissioner of the General Land Office (GLO) to sell power directly to a public retail customer.

The GLO or an entity contracting with GLO may continue to provide retail electric services until the date the agreement with the customer expires. An agreement may extend the date no later than January 1, 2024.

The bill also prohibits the miscellaneous gross receipts tax from being imposed on the sale of electricity to a public school district customer starting January 1, 2024. Taxes imposed before that date are not affected by the legislation.

The Public Utility Commission is required to provide electric utilities with the adjustment of the utilities' billing of a public school district customer to reflect a decrease in tax liability resulting from this bill. An adjustment would have to be made effective at the same time as the decrease of tax liability or as soon as practicable. An adjustment would not be classified as a rate case.

A retail electric provider must adjust the billing of a public school district customer as soon as practicable after January 1, 2024 to reflect a decrease in tax liability resulting from this bill.

HB 4257 – Barring Retaliation for Municipal Annexation Disapproval

Sponsored by Sen. Campbell

Amends current law relating to retaliation for municipal annexation disapproval.

Provides that the disapproval of the proposed annexation of an area with a population of at least 200 does not affect any existing legal obligation of the municipality proposing the annexation to continue to provide governmental services in the area, including water or wastewater services, regardless of whether the municipality holds a certificate of convenience and necessity to serve the area, rather than does not affect any existing legal obligation of the municipality proposing the annexation to continue to provide governmental services in the area, including water or wastewater services.

A municipality that makes a wholesale sale of water to a special district is prohibited from charging rates for the water that are higher than rates charged in other similarly situated areas solely because the district is wholly or partly located in an area that disapproved of a proposed annexation under this bill.

HB 4749 – Amending the Special District Local Laws Code for Rose City Municipal Utility District

Sponsored by Sen. Hughes

Creates Rose City Municipal Utility District with the powers and duties of a standard municipal utility district limited only to provide sewer and wastewater services.

The district must, among other requirements, receive consent to the creation of the district from each municipality in whose corporate limits or extraterritorial jurisdiction the district is located prior to holding a confirmation election.

The district may also exercise the power of eminent domain only for the limited purpose of acquiring or constructing sewer and wastewater facilities, and it may contract with the city of Tyler for the city to operate and maintain the district's sewer and wastewater facilities. The bill establishes that the district may provide sewer and wastewater service without a certificate of convenience and necessity.

HB 853 – Advanced Metering and Meter Information Networks in Non-ERCOT Areas

Sponsored by Sen. Rodriguez

Allows certain investor-owned, non-ERCOT electric utilities operating that elected to deploy advanced metering and meter information networks to recover reasonable and necessary costs incurred from that deployment.

Affected utilities are subject to Public Utility Commission (PUC) rules related to customer surcharges and privacy of customer information. PUC must ensure that the deployment plan and any related customer surcharge does not apply to customer accounts that received service at transmission voltage and maintains consistency with PUC rules related to advanced metering systems regarding customer protections, data security, and non-advanced meter options for customers.

Under the law, an electric utility electing to deploy an advanced meter information network must deploy the network as rapidly as practicable to allow customers to better manage energy use and control costs.

HB 986 – Regulations Concerning Non-ERCOT Utilities

Sponsored by Sen. Perry

Regulates certain investor-owned electric utilities operating solely outside of the Electric Reliability Council of Texas (ERCOT) with fewer than six synchronous interconnections with voltage levels above 69 kilovolts systemwide on the effective date of the act (specifically, Southwestern Public Service Company).

Similar to HB 853, the bill requires the Public Utility Commission (PUC) to establish a nonbypassable surcharge for an electric utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks. The PUC must ensure that the surcharge reflects no more than one-third of the utility's total meters over a calendar year and does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs.

The statute also requires PUC to prohibit an electric utility from selling, sharing, or disclosing certain information generated or collected from an advanced metering system or meter information network, including customer information.

HR 1091 – Commending Xcel Energy Employee for Volunteer Work

Sponsored by Rep. Springer

Commends Steve Marshall, an Xcel Energy employee, for his volunteer efforts to restore power in Puerto Rico and extend to him sincere best wishes for the future.

HR 473/SR 226 – Texas Energy Day Recognition

Sponsored by Rep. Paddie and Sen. Birdwell

Recognizes February 20, 2019, as Texas Energy Day at the state capitol and extends to all those taking part in the event sincere best wishes for an informative and enjoyable visit to Austin.

HR 679 – Commending AEP Texas

Sponsored by Rep. Lozano

Recognizes AEP Texas for its work to restore electricity in the aftermath of Hurricane Harvey.

SB 1012 – Applicability of Certain Energy Storage Equipment Requirements

Sponsored by Sen. Zaffirini

Amends current law relating to the applicability of certain electric energy storage equipment requirements to municipally owned utilities and electric cooperatives.

The bill provides that, relating to providing that the owner or operator of certain generation assets is a power generation company and setting forth certain requirements and entitlements for the company, does not require a municipally-owned utility or an electric cooperative that owns or operates electric energy storage equipment or facilities to register as a power generation company.

SB 1497 – Registration and Regulation of Brokers by the PUC

Sponsored by Sen. Zaffirini

Prohibits a person from providing electric brokerage services, including services offered online, unless the person is registered with the Public Utility Commission (PUC).

According to the bill, the commission is required to process a person's application for registration as a broker by the sixtieth day after the person filed the application. A person who registered with PUC under the bill's provisions is required to comply with consumer protection provisions, disclosure requirements, and marketing guidelines established by PUC and by statute.

A retail electric provider is prohibited from knowingly providing bids or offers to an unregistered broker. A provider also may not register as a broker, and a broker may not sell or take title to electric energy.

SB 700 – Changing Water Class Rates and Authorizing Alternative Ratemaking

Sponsored by Rep. Geren

Restructures water rate classes and ratemaking processes for public water and wastewater utilities, authorizes temporary or emergency rates for troubled systems, and allows rate adjustments for the smallest utility class.

Computer Technology and Digital Innovation

HB 3834 – Cybersecurity Training Requirements

Sponsored by Sen. Paxton

Requires the Department of Information Resources (DIR), in consultation with the state cybersecurity council and industry stakeholders, to annually certify at least 20 cybersecurity training programs for state and local government employees and to update standards for maintenance of certification by the training programs.

To receive certification, a training program must include activities, case studies, hypothetical situations, and other methods that focus on forming information security habits and procedures that protected information resources and taught best practices for detecting, assessing, reporting, and addressing threats.

SB 64 – State Agency Information Resources Cybersecurity Requirements

Sponsored by Rep. Phelan

Revises various cybersecurity requirements for state agency information resources, including oversight of cybersecurity practices and the state's electric grid.

The act renames the current information sharing and analysis center, which provides a forum for state agencies to share information regarding cybersecurity threats, best practices, and remediation strategies, as the information sharing and analysis organization. The bill expands participation in the organization to include local governments, public and private institutions of higher education, and the private sector.

The bill further requires each state agency to include in its information security plan required under state law a written document that was signed by the head of the agency, the chief financial officer, and each executive manager and stated that those persons had been made aware of the risks revealed during the preparation of the plan.

The requirements for the biennial report that Department of Information Resources (DIR) has to submit to certain persons on the condition of state agencies' information technology infrastructure is revised such that a state agency found to be at higher security and operational risk, the report must include a detailed analysis of agency efforts to address the risks and related vulnerabilities, and for such an agency, the report no longer would have to include an estimate of the costs to address the risks and vulnerabilities through certain activities.

By October 1 of each even-numbered year, DIR must submit a report to the Legislative Budget Board that prioritized, for the purpose of receiving funding, state agency cybersecurity and legacy system replacement or modernization projects. Each state agency will coordinate with DIR to implement this requirement. A state agency must assert any exception available under state or federal law in response to a request for public disclosure of information contained in or written, produced, collected, assembled, or maintained in connection with the report.

Further, the bill requires a state agency that owns, licenses, or maintains computerized data that includes sensitive personal or confidential information to notify DIR, including the chief information security officer, of the details of a breach, suspected breach, or unauthorized exposure within 10 business days after eradication, closure, and recovery. The notification must include an analysis of the event's cause. The agency is no longer required to notify the state cybersecurity coordinator within 48 hours of the discovery of the event, while other notification requirements under current law remain.

The legislation adds a cybersecurity event to the list of occurrences or imminent threats considered a disaster for the purposes of the Texas Disaster Act. The bill also states that the Public Utility Commission (PUC) must establish a program to monitor cybersecurity efforts among utilities in Texas. For the purposes of this requirement, the bill defines "utility" as an electric cooperative, an electric utility, a municipally owned electric utility, a retail electric provider, or a transmission and distribution utility.

The program must provide guidance on best practices in cybersecurity and facilitate the sharing of cybersecurity information between utilities. It also must provide guidance on best practices for cybersecurity controls for supply chain risk management of cybersecurity systems used by utilities, which could include those related to software integrity and authenticity, vendor risk management and procurement controls, and vendor remote access. PUC may collaborate with the state cybersecurity coordinator and the cybersecurity council in implementing the program.

The bill also states that each state agency and local government must, in the administration of the agency or local government, consider using next generation technologies, including cryptocurrency, blockchain technology, and artificial intelligence.

Finally, the act requires the Electric Reliability Council of Texas (ERCOT) to conduct an internal cybersecurity risk assessment, vulnerability testing, and employee training for activities are not otherwise required under applicable state and federal laws. ERCOT also must submit an annual report to the PUC on compliance with applicable cybersecurity and information security laws. Information in the report is considered confidential and not subject to disclosure under public information laws.

SB 936 – Cybersecurity Monitoring for Certain Electric Utilities

Sponsored by Rep. Hernandez

Requires the Public Utility Commission (PUC) and the Electric Reliability Council of Texas (ERCOT) to contract with an entity to act as PUC's cybersecurity monitor to:

- Manage a comprehensive cybersecurity outreach program for monitored utilities;
- Meet regularly with monitored utilities to discuss emerging threats, best business practices, and training opportunities;
- Review self-assessments of cybersecurity efforts voluntarily disclosed by monitored utilities;
- Research and develop best business practices on cybersecurity; and
- Report to PUC on monitored utility cybersecurity preparedness.

Monitored utilities include:

- Transmission and distribution utilities;
- Wholesale retailers of electric energy on behalf of river authorities; and
- Certain municipally owned utilities or electric cooperatives that operated in or solely outside the ERCOT power region.

The bill requires PUC, on its own motion or on the petition of an electric utility, to allow the utility to recover costs incurred in connection with the cybersecurity monitor program. An electric utility, municipally owned utility, or electric cooperative that operated solely outside the ERCOT power region may elect to participate in the cybersecurity monitor program or to discontinue participation. PUC must establish procedures for a utility or cooperative to notify PUC, ERCOT, and the monitor that it elected to participate or discontinue participation. PUC must also adopt a mechanism to require a utility or cooperative that elected to participate to contribute to costs incurred by ERCOT under the bill.

Environmental Legislation

Air Quality and Pollution Control

HB 1627 – Removing Victoria County from the Emissions Reduction Plan

Sponsored by Sen. Kolkhorst

Modifies the Health and Safety Code to remove Victoria County as an “affected county” for purposes of the Texas emissions reduction plan.

HB 2726 – Construction During Pending Air Quality Permit

Sponsored by Sen. Creighton

Amends the Health and Safety Code of Texas to allow a person who submitted an application for a permit amendment, to, at the person’s own risk and to the extent permissible under federal law, begin construction related to the application after the executive director of the Texas Commission on Environmental Quality (TCEQ) had issued a draft permit including the permit amendment.

TCEQ is directed to adopt rules implementing the bill’s provisions. The bill goes into effect January 1, 2020, and it applies only to applications for permit amendments filed with the TCEQ on or after that date.

HB 3745 – Establishing the Texas Emissions Reduction Plan Trust Fund

Sponsored by Sen. Birdwell

Extend the assessment of surcharges and fees for the Texas Emissions Reduction Plan (TERP) and create the TERP trust fund.

The bill extends the expiration date of TERP surcharges and fees from September 1, 2019, to the last day of the fiscal biennium in which the state attained compliance with federal ambient air quality standards for ground-level ozone.

The act establishes the Texas Emissions Reduction Plan Fund as a trust fund outside the state treasury held by the comptroller and administered by the Texas Commission on Environmental Quality (TCEQ) as trustee.

Money in the fund may be spent without legislative appropriation and used only to implement and administer TERP programs according to current law.

The TERP fund consists of:

- Funds paid for nitrous oxide emissions in certain nonattainment areas;
- Surcharges and fees assessed for TERP; and

- Grant money recaptured under the Diesel Emissions Reduction Incentive Program and the New Technology Implementation Grant Program.

Coastal Zone Management

HB 4690 – Expanding the Purview of the Gulf Coast Water Authority

Sponsored by Sen. Taylor

Expands the territory of the Gulf Coast Water Authority to include Brazoria and Fort Bend Counties and modifies certain powers and duties.

HCR 140 – Recognizing 2020 as “The Year to Embrace the Gulf”

Sponsored by Sen. Hinojosa

Declares that “the five Gulf states, Alabama, Florida, Louisiana, Mississippi, and Texas, contribute immeasurably to the nation’s economy, security, energy, environment, culture, beauty, diversity, and resilience and plays a vital role in our nation’s defense and aerospace exploration; moreover, it is crucial to oil, gas, and energy production, as well as import and export trade; if it were a country, the region ’s economy would rank among the globe ’s top 10.”

The resolution recognizes 2020 as “The Year to Embrace the Gulf ” and encourages all Texans to join in the observance.

Emergency Management and Homeland Security

HB 1306 – Removing Barriers to Flood Insurance Coverage

Sponsored by Sen. Hancock

Amends current law relating to the provision of flood coverage under insurance policies issued by surplus lines insurers.

Because of the act, the stipulation that an eligible surplus lines insurer provide surplus lines insurance only if the full amount of required insurance cannot be obtained, after a diligent effort, from certain other authorized insurers in Texas and if the authorization of an eligible surplus lines insurer to provide surplus lines insurance only in the amount that exceeds the amount of insurance obtainable from authorized insurers no longer applies to flood coverage under an insurance policy issued by an eligible surplus lines insurer that has a financial strength rating of A- or better from the A.M. Best Company.

HB 2310 – Appropriately Titling Flood-Damaged Vehicles

Sponsored by Sen. Alvarado

Modifies current law to require the Department of Motor Vehicles (DMV) and the Texas Division of Emergency Management to coordinate with the Federal Emergency Management Agency (FEMA) to ensure that the DMV has information necessary to apply a flood damage notation to the title of a vehicle that is a salvage motor vehicle due to damage exclusively caused by flood and that has been repaired or salvaged using financial assistance from FEMA.

HB 2320 – Emergency and Disaster Management, Response, and Recovery

Sponsored by Sen. Taylor

Requires the Texas Division of Emergency Management (TDEM) to collaborate with state and local agencies and public and private entities to create plans for improving emergency services during and after a disaster.

The legislation establishes that TDEM must, as practicable and in collaboration with entities of the division’s choosing, include private wireless communication, Internet, and cable service providers in the disaster planning process. The division must also determine the availability of the providers’ portable satellite communications equipment and portable mobile telephone towers to assist in response and recovery immediately following disasters.

The bill also requires TDEM to identify methods for hardening utility facilities and critical infrastructure, including hospitals and fire stations, in order to maintain essential services during disasters. The division, in collaboration with

the Texas Commission on Environmental Quality, the Railroad Commission of Texas, and any other state agencies chosen by the division, is required to determine methods for effectively reducing risks and impacts on facilities and critical infrastructure from disaster. These agencies are required to encourage public and private entities that are responsible for utility facilities and critical infrastructure to implement the methods determined effective by TDEM. A utility facility owned or controlled by a utility regulated by the Public Utility Commission (PUC) is exempt from these requirements.

TDEM is directed to, no later than November 1, 2020, submit a report to members of the legislature on improving the oversight, accountability, and availability of building trade services following natural disasters. In preparing the report, TDEM must consult with the Texas Department of Licensing and Regulation and any other state agencies selected by the division, local governments, trade associations, and law enforcement groups. The report should include:

- Strategies to increase the availability of tradespeople, including plumbers and electricians, following a disaster;
- Approaches to increase prosecutions of alleged fraud related to building trade services offered following a disaster; and
- Methods to encourage performance bond requirements in contracts for building trade services to be performed following a disaster.

Finally, the act requires TDEM, in cooperation with PUC, to promote public awareness of bill payment assistance available during a disaster for electric, water, and wastewater services, including assistance for consumers on level billing plans. The two entities are charged with providing the public with information about billing practices during a disaster ensuring that consumers of these services have an adequate understanding of their rights. The public awareness campaign is set to begin by December 1, 2019.

HB 2340 – Studying Unmanned Aircraft for Disaster Response and Recovery

Sponsored by Sen. Johnson

Establishes a study group to examine issues related to the appropriate use of unmanned aircraft in responding to and recovering from a disaster, including:

- Strategies for coordinating and promoting the use of unmanned aircraft among state, local, and private entities in the response and recovery; and
- Recommended changes to state law that would allow entities to more effectively use unmanned aircraft in the response and recovery.

HB 2345 – Establishing an Institute and Study Committee to Plan for Disaster Events

Sponsored by Sen. Miles

Establishes the Institute for a Disaster Resilient Texas and a Flood Event Partnership Options Special Study Committee to analyze certain disaster-preparedness issues.

The institute would collaborate with state and local government entities to:

- Develop data analytics tools to support disaster planning, mitigation, response, and recovery;
- Create and maintain online tools to communicate disaster risks, including tools that work on the level of individual parcels of land;
- Provide information and solutions to aid in the formation of state and local partnerships to promote disaster resilience;

- Collect, display, and communicate flood-related information, including updated inundation maps, for use by the public; and
- Study and test ideas for flood planning and mitigation.

Under the bill, the Texas Water Development Board must develop an inventory of flood mitigation and resiliency projects and a prioritization methodology, to guide local, state, and federal decision makers.

HB 3365 – Disaster Response Immunity Provisions

Sponsored by Sen. Alvarado

Amends the Civil Practice and Remedies Code to provide immunity from civil liability for a person assisting a charitable organization providing services in a man-made or natural disaster.

SB 285 – Information, Outreach, and Other Actions Regarding Hurricane Response

Sponsored by Rep. Thompson

Establishes two means of distributing hurricane preparedness and assistance information.

First, the governor must issue a proclamation before each hurricane season that instructs:

- Individuals to prepare their property and communities for hurricane season;
- State agencies to update their hurricane preparedness plans; and
- Cities, counties, and various state agencies to conduct outreach on hurricane preparedness.

Second, the Texas General Land Office must conduct a public information campaign each year before and during hurricane season. The campaign must provide local officials and the public with information about what housing resources state and federal law does and does not provide in the aftermath of a hurricane or flood.

SB 339 – Sellers Disclosures for Residential Property Near Potential Flood Sources

Sponsored by Rep. Morrison

Requires sellers of residential real property to give enhanced notice about the flood-prone status of their home.

Sellers must disclose whether:

- Their home is located wholly or partly in a 100-year flood plain;
- Their home is located wholly or partly in a 500-year flood plain;
- Their home is located wholly or partly in a flood pool;
- Their home is located wholly or partly in a reservoir;
- The home is located five miles downstream of a reservoir;
- Their home may flood under catastrophic circumstances; and
- Their home has flooded in a flood event.

SB 442 – Flood Coverage Disclosures for Commercial or Residential Insurance

Sponsored by Reps. Perez, Lucio III, and Oliverson

Requires an insurer that issued or renewed a commercial or residential property insurance policy that did not provide coverage against loss caused by flooding to include certain information with the policy documents provided to the policyholder.

Per the bill, the documents provided to a policyholder at the time the policy was issued or renewed would have to include, in a conspicuous manner, the following statement: “Flood Insurance: You may also need to consider the purchase of flood insurance. Your insurance policy does not include coverage for damage resulting from a flood even if hurricane winds and rain caused the flood to occur. Without separate flood insurance coverage, you may have uncovered losses caused by a flood. Please discuss the need to purchase separate flood insurance coverage with your insurance agent or insurance company, or visit www.floodsmart.gov.”

SB 494 – Suspending Certain Open Government Laws During Emergencies

Sponsored by Rep. Walle

Revises requirements related to exceptions to open meetings requirements in certain emergency situations.

The bill allows a governmental body to temporarily suspend requirements related to the handling of public information requests during certain emergencies.

It decreases from at least two hours to one hour the posting time for notice of an emergency meeting or emergency addition to an agenda of a governmental body in an emergency or when there was an urgent public necessity. The notice would have to concern a meeting to deliberate or take action on the emergency or urgent public necessity, or a supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting that had already posted the statutorily required notice.

The bill also specifies conditions under which an emergency meeting or an emergency addition to an agenda would exist to include an imminent threat to public health and safety or a reasonably unforeseeable situation, including:

- Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
- Power failure, transportation failure, or interruption of communication facilities;
- Epidemic; or
- Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

SB 615 – Revising the Operations of the Texas Windstorm Insurance Association

Sponsored by Rep. Paddie

Modifies the operations and functions of the Texas Windstorm Insurance Association (TWIA).

The changes include:

- Establishing a process for automatic renewal of policies and acceptance of certain payment methods;
- Formally authorizing TWIA to provide supplemental payments;
- Determining replacement cost at effective date of policy rather than at the time of property loss;
- Transferring the issuance of certificates of compliance from TWIA to the Texas Department of Insurance (TDI);
- Requiring certain disclosures; and
- Making other changes consistent with across-the-board Sunset recommendations.

SB 7 – Establishing the Flood Infrastructure Fund

Sponsored by Rep. Phelan

Creates the Flood Infrastructure Fund as a special fund in the state treasury outside the general revenue fund.

The Flood Infrastructure Fund may be used by the Texas Water Development Board (TWDB) as provided by the bill without further legislative appropriation. The fund consists of legislative appropriations, general obligation bond proceeds, dedicated fees, loan repayments, interest, gifts, grants, donations, and money from revenue bonds or other sources dedicated by TWDB.

The bill allows TWDB to use the fund only:

- To make a loan to a political subdivision at or below market interest rates for a flood project (defined as a drainage, flood mitigation, or flood control project, including planning and design activities, work to obtain regulatory approval for structural or nonstructural flood mitigation and drainage, and related construction and implementation of structural and nonstructural projects);
- To make a grant or low- or zero-interest loan to an eligible political subdivision for a flood project to serve an area outside a metropolitan statistical area or an economically distressed area;
- To make a loan at or below market interest rates for planning and design costs, permitting costs, and other costs associated with state or federal regulatory activities related to a flood project;
- To make a grant to a political subdivision to provide matching funds for participation in a federal program for a flood project;
- As a source of revenue or security for the principal and interest payment on bonds issued by TWDB for purposes of the fund, if the bond proceeds would be deposited in the fund; and
- To pay the expenses of TWDB in administering the fund.

SB 8 – Establishing State and Regional Flood Plans

Sponsored by Rep. Larson

Creates a process to adopt a state flood plan based on regional water plans, establish a temporary advisory committee, and require reports on a dam repair and maintenance plan.

The bill requires the Texas Water Development Board (TWDB) to prepare and adopt a comprehensive state flood plan that incorporated regional flood plans by September 1, 2024, and before the end of each five-year period after that date. The state flood plan must establish orderly preparation for and response to flood conditions to protect against the loss of life and property, be a guide to state and local flood control policy and contribute to water development where possible.

The act requires the state flood plan to include:

- An evaluation of the condition and adequacy of flood control infrastructure on a regional basis;
- A statewide, ranked list of ongoing and proposed flood control and mitigation projects;
- An analysis of flood control projects included in previous state flood plans;
- An analysis of development in the 100-year floodplain areas; and
- Legislative recommendations.

TWDB, in coordination with other state entities, must also adopt guidance principles for the state flood plan that reflect the public interest of the entire state. The bill requires TWDB to review and revise the principles as necessary and at least every five years to coincide with the five-year cycle for adoption of a new state flood plan. The act further requires each regional flood planning group to hold public meetings as provided by board rule to gather from interested persons suggestions and recommendations that should be considered in a regional flood plan.

A regional flood plan is required to use information based on scientific data and updated mapping and include:

- A general description of the condition and functionality of flood control infrastructure in the flood planning region;
- Flood control projects under construction or in the planning stage;
- Information on land use changes and population growth in the region;
- An identification of the areas in the region prone to flood and flood control solutions for those areas; and
- An indication of whether a solution met an emergency need, used federal money, and could serve as a water supply source.

After preparing a region flood plan, the group must hold at least one public meeting to accept comments on the plan. The planning group is compelled by the legislation to cooperate with TWDB to determine the method for providing notice for the meeting and publish or disseminate the notice in accordance with that method.

The bill requires the regional planning group, after consideration of comments, to adopt the regional flood plan and submit it to TWDB. TWDB then must decide on whether the plan satisfied regional flood plan requirements, adequately provided for the preservation of life and property and the applicable development of water supply sources and affected a neighboring area.

Finally, SB 8 requires the State Soil and Water Conservation Board to prepare and adopt a plan describing the repair and maintenance needs of flood control dams every 10 years. The plan must include projects under jurisdiction of the state board and authorized under certain federal laws, and the board must deliver an adopted 10-year plan to TWDB.

SB 752 – Revising Liability Standards for Health Care Providers During an Emergency

Sponsored by Rep. Oliverson

Extends liability protection for volunteer health care professionals (except for in cases of reckless conduct or intentional, willful, or wanton misconduct) and the facilities that sponsor the care of assistance during or in the wake of a man-made or natural disaster.

The legislation also clarifies that health care providers and health care institutions are protected under their current limited liability policies during times of natural disaster, even if the location of care is atypical of their current coverage.

SB 799 – Council for Advising on Business Recovery Following a Disaster

Sponsored by Rep. Murphy

Creates a business advisory council to provide advice and expertise on actions state and local governments may take to assist businesses in recovering from a disaster.

The advisory council would have to:

- Advise the Texas Division of Emergency Management (TDEM) on policies, rules, and program operations to assist businesses in recovering from a disaster;
- Advise TDEM on the state resources and services needed to assist businesses in recovering from a catastrophic loss of electric power; and

- Propose solutions to address inefficiencies or problems in the state or local governmental disaster response with respect to impact on businesses and the economy.

By November 1 of each even-numbered year, the advisory council must report on its activities, advice, and proposed solutions to TDEM, the governor, the lieutenant governor, and the House speaker.

SB 812 – Revising the Definition of a Disaster Recovery Program

Sponsored by Sens. Thompson

Amends the Tax Code to revise the definition of “disaster recovery program” as that definition relates to federal funding for such recovery and the limitation on the appraised value of a residence homestead for property tax purposes provided for an improvement to the homestead that is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage.

The bill also provides for the correction or supplementation, as appropriate, of the appraisal records to correct the appraised value of each replacement structure that has been constructed since January 1, 2018, under such a disaster recovery program administered by a political subdivision for the current tax year, if necessary, and for the refunding of any taxes paid in excess of the corrected amount due. The act applies only to the appraisal of a residence homestead for property tax purposes for a tax year that begins on or after January 1, 2019.

SR 816 – Encouraging Congress to Consolidate Disaster Recovery Housing Funding

Sponsored by Sen. Alvarado and Kolkhorst

Urges the United States Congress to enact legislation to consolidate disaster recovery housing funding into a single Disaster Housing Response and Recovery Block Grant.

Environmental Health Services

HB 306 – Creation of an Open Burn Pit Registry for Certain Persons

Sponsored by Sen. Hinojosa

Requires the Department of State Health Services (DSHS) to establish an open burn pit registry of service members and veterans exposed to open burn pit smoke or other airborne hazards during their service in any conflict or theater recognized by the U.S. Department of Veterans Affairs (VA).

For each entry in the registry, DSHS must include the service member or veteran’s:

- Name, address, phone number, and electronic address;
- Location and period of military service;
- Medical condition or death that could be related to exposure to open burn pit smoke or other airborne hazards; and
- Other information considered necessary by the VA.

SB 317 – Removing Restrictions on Feral Hog Taking

Sponsored by Reps. Toth and Cyrier

Strikes “causing depredation” from statute to allow all feral hogs in Texas to be taken without the need to first acquire an annual hunting license.

Hazardous Waste and Substance Management

HB 191 – Pesticide Disposal Amendments

Sponsored by Sen. Kolkhorst

Amends the Agriculture Code to create the new Pesticide Disposal Fund in the state treasury outside of the General Revenue Fund. It consists of revenue from annual transfers of pesticide registration fees of up to \$400,000 in amounts determined by the Department of Agriculture (TDA) to be necessary to administer pesticide waste and container collection activities. Interest earned from money in the fund must be deposited to the credit of the fund.

TDA is prohibited from raising fees to fund pesticide waste and container collection activities. The fund would be administered by TDA for the sole purpose of working with Texas A&M AgriLife Extension Service (TAES) and the Texas Commission on Environmental Quality (TCEQ) to organize pesticide waste and pesticide container collection activities statewide. TDA, TAES, and TCEQ would be authorized to arrange for contractors to collect canceled, unregistered, or unwanted pesticide products and containers. The bill would prohibit TDA from increasing fees to administer pesticide waste and container collection activities.

HB 1953 – Plastics and Recoverable Feedstocks Conversion Rule Modifications

Sponsored by Sen. Hancock

Requires the Texas Commission on Environmental Quality (TCEQ) to change how it considers post-use polymers and recoverable feedstock recycling as these items relate to the regulation of solid waste.

The bill provides that post-use polymers or recoverable feedstocks processed through pyrolysis or gasification that do not qualify as hazardous waste under the Resource Conservation and Recovery Act of 1976 must not be considered solid waste if they are converted using pyrolysis or gasification into a valuable raw, intermediate, or final product, including a plastic, monomer, chemical, wax, lubricant, or chemical feedstock or crude oil, diesel, gasoline, diesel and gasoline blendstock, home heating oil, ethanol, or another fuel.

The measure also states that the recycling and reuse of post-use polymers and recoverable feedstocks classified as hazardous waste under federal law are subject to the federal hazardous waste recycling requirements.

Inland Water Resource Management and Conservation

HB 1066 – Groundwater Transfer Permit Extensions

Sponsored by Sen. Perry

Addresses the circumstance when a groundwater transfer permit expires before the related operating permit for production of a well by allowing the district to extend the permit to align with the terms of the operating permit.

HB 137 – Reporting on Hazardous Dams

Sponsored by Sen. Perry

Requires Texas Commission on Environmental Quality (TCEQ) to provide a report of a dam that has a high or significant hazard classification to the emergency management director, or the emergency management director's designee, for the municipality or county in which the dam is located and the executive director or equivalent position of each council of government or local or regional development council for the area in which the dam is located.

The bill establishes the TCEQ must also report on a biannual basis each dam that has changed in classification to high or significant hazard.

HB 1824 – Removal and Sale of Materials from the San Jacinto River

Sponsored by Sen. Flores

Changes the Parks and Wildlife Code related to taking sand, gravel, marl, shell, and mudshell from the San Jacinto River and its tributaries by the San Jacinto River Authority and the Harris County Flood Control District.

The bill also allows the Texas Parks and Wildlife Commission to utilize royalties from the excavation of sand, gravel, marl, shell, and mudshell from Texas public waters to support habitat enhancement, preservation, and restoration of fish habitats in rivers and streams.

HB 2590 – Powers and Duties of Water Districts Modification

Sponsored by Sen. Creighton

Amends the Local Government Code, the Special District Local Laws Code, and the Water Code relating to the administration, powers, and duties of water districts.

The act authorizes a majority of the qualified voters of the area of the proposed political subdivision and the owners of at least 50 percent of the land in the proposed political subdivision, if the governing body fails or refuses to give its consent for the creation of the political subdivision, including a water district previously created by an act of the legislature, on mutually agreeable terms within 90 days after the date the governing body receives a written request for the consent, to petition the governing body to make available to the area the water, sanitary sewer services, or both that would be provided by the political subdivision.

The bill further authorizes the applicant, if the municipality fails or refuses to give its consent to the creation of the political subdivision, including a water district previously created by an act of the legislature, or fails or refuses to execute a contract providing for the water or sanitary sewer services requested within the time limits prescribed by this law, to petition the Texas Commission on Environmental Quality (TCEQ), rather than Texas Natural Resource Conservation Commission (TNRCC), for the creation of the political subdivision or the inclusion of the land in a political subdivision. TCEQ is required to allow creation or confirmation of the creation of the political subdivision or inclusion of the land in a proposed political subdivision on finding that the municipality either does not have the reasonable ability to serve or has failed to make a legally binding commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner.

A provision allows for a district providing potable water or sewer services or facilities, rather than a district providing potable water or sewer service to household users, to, separately or jointly with another district, municipality, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply.

HB 26 – Regulating Emergency Management of Dams

Sponsored by Sen. Nichols

Amends the Water Code to require the Texas Commission on Environmental Quality (TCEQ) to perform acts necessary to provide for the safe operation and emergency management of dams located in Texas.

The bill authorizes TCEQ to require the owner or operator of a state-regulated dam that has a spillway with gates used to regulate flood waters to notify local emergency operation centers in downstream communities when spillway releases are made to regulate flood waters and requires notified emergency operation centers to provide notice to the public when a release may contribute to flooding that may result in damage to life and property through all available means.

HB 3339 – Requirements for Water Conservation Programs and Plans

Sponsored by Sen. Creighton

Enacts statutory changes so that there is a single, consistent requirement for water conservation plans for all applicants for financial assistance at the Texas Water Development Board (TWDB).

This bill relocates previously established statutory requirements into one section that is applicable to all relevant

TWDB financial assistance programs. One consistent water conservation plan requirement for all programs eliminates discrepancies and applies the requirement to both surface water and groundwater projects for all programs.

HB 3782 – Removal of Property Encroaching on Flood Easements

Sponsored by Sen. Alvarado

Authorizes the Harris County Flood Control District, in the interest of flood mitigation infrastructure, to remove real or personal property placed on land owned by the district or land subject to an easement held by the district, regardless of when the property was put in place and without the consent of the property's owner.

The district must notify the owner twice by certified mail, with at least 14 days in between notices. The district may bring a cause of action against the owner to recover the cost of removing the property beginning seven days after the second notice was received.

HB 3815/SB 339 – Requiring Disclosures for Property Relating to Flood Plains, Pools, or Reservoirs

Sponsored by Sen. Huffman and Rep. Morrison

Amends the Property Code to require certain additional information on existing real estate disclosures from sellers of real estate. The additional information relates to flood plains, flood pools, or reservoirs.

The bill requires sellers of residential real property to give enhanced notice about the flood-prone status of their home. Previously, sellers only had to disclose, if they knew, whether their home was in a 100-year floodplain.

Under the new law, sellers would have to disclose whether any of the following conditions apply:

- Their home is located wholly or partly in a 100-year flood plain;
- Their home is located wholly or partly in a 500-year flood plain;
- Their home is located wholly or partly in a flood pool;
- Their home is located wholly or partly in a reservoir;
- The home is located five miles downstream of a reservoir;
- Their home may flood under catastrophic circumstances; and
- Their home has flooded in a flood event.

HB 4705 – Expanding the Sutton County Underground Water Conservation District

Sponsored by Sen. Perry

Amends current law to expand the territory of the Sutton County Underground Water Conservation District's purview.

HB 720 – Appropriating Certain Water Flows for Aquifer Storage or Recharge Projects

Sponsored by Sen. Perry

Allows certain unappropriated water to be used for recharge into an aquifer or for aquifer storage and recovery (ASR) and establish requirements for applications or amendments to water rights related to aquifer recharge or ASR projects.

HB 721 – Requiring Statewide Survey of Aquifers for Storage and Recovery

Sponsored by Sen. Perry

Requires the Texas Water Development Board (TWDB) to conduct statewide studies and surveys to determine the occurrence, quantity, quality, and availability of aquifers in which aquifer storage and recovery projects or aquifer recharge projects would be feasible.

An aquifer recharge project is defined in the bill as a project involving the intentional recharge of an aquifer by means of an injection well or other means of infiltration designed to:

- Reduce declines in the water level;
- Supplement the quantity of groundwater available;
- Improve water quality in an aquifer;
- Improve spring flows and other interactions between groundwater and surface water; or
- Mitigate subsidence.

The board is further required to conduct a statewide survey to identify the suitability of various major and minor aquifers for use in aquifer storage and recovery projects or aquifer recharge projects. The survey must consider:

- Aquifers' hydrogeological characteristics, with a focus on storage potential, transmissivity, recoverability, and water quality, among other characteristics;
- Aquifers' proximity to excess water available for potential storage and the frequency and volume of the water; and
- The current and future water supply needs identified in the state water plan.

HB 723 – Updating Water Availability Models for Certain Basins

Sponsored by Sen. Perry

Requires the Texas Commission on Environmental Quality (TCEQ) to obtain or develop updated water availability models for the Brazos, Neches, Red, and Rio Grande river basins no later than December 1, 2022.

TCEQ may collect data from all jurisdictions that allocate the waters of these rivers, including jurisdictions outside the state. The bill takes effect September 1, 2019.

HB 807 – Establishing an Interregional Water Planning Council

Sponsored by Sen. Buckingham

Creates an interregional planning council made up of representatives from the state's regional water planning groups.

The bill also expands the requirements for information that planning groups are required to provide in their regional water plans. These requirements include an assessment of the potential for aquifer storage and recovery projects to meet significant needs where identified, along with other information.

HB 907 – Increasing Inspection Rates for Aggregate Water Production Operations

Sponsored by Sen. Creighton

Amends the Water Code to increase to at least once every two years the frequency with which the Texas Commission on Environmental Quality (TCEQ) is required to inspect an active aggregate production operation during the first six years in which the operation is registered.

The bill authorizes TCEQ to conduct unannounced periodic inspections of an aggregate production operation that in the preceding three-year period has been issued a notice of violation by TCEQ for a violation of an environmental law or rule under TCEQ jurisdiction, and finally, the act increases the maximum annual aggregate production operation registration fee and the maximum penalties for the operation of an unregistered aggregate production operation.

HR 983/SR 460 – Texas Rural Water Day Recognition

Sponsored by Rep. Lucio and Sen. Zaffirini

Recognizes March 27, 2019, as Texas Rural Water Day.

SB 1574 – Relating to the Duties of the Texas Water Development Board

Sponsored by Rep. King

Removes three main obsolete and duplicative requirements from the Texas Water Code:

- The statutory requirement for the Water Conservation Study conducted jointly between the Texas Water Development Board (TWDB) and the Texas State Soil and Water Conservation Board (TSSWCB).
- The requirement for TWDB to meet annually with the board of the Texas Department of Housing and Community Affairs or any successor agency to assess the agencies' progress in meeting needs of Colonia residents and to receive updates and recommendations from the Colonia Initiatives Advisory Committee.
- The statutory requirement for the TWDB report that evaluates best management practices in water conservation plans. By the end of fiscal year 2019 the information included in the report will be posted annually on the TWDB's website, making the report unnecessary.

SB 2452 – Use of Certain Bonds for EDAP

Sponsored by Rep. Gonzalez

Allows the Texas Water Development Board (TWDB) to maximize the effectiveness of the additional general obligation bonds authorized by the Texas constitution for use in providing financial assistance for the development of water supply and sewer service projects by using the bonds in conjunction with other sources of financial assistance, including nonpublic funds, for Economically Distressed Areas Program (EDAP) projects.

TWDB may also use the additional bonds to promote and support public-private partnerships that the board determines are financially viable, thereby diversifying the methods of financing of EDAP projects and reducing the reliance on bonds.

SB 483 – Permitting for Certain Injection Wells Transecting the Edwards Aquifer

Sponsored by Rep. Zwiener

Amends the water code relating to permits for injection wells that transect a portion of the Edwards Aquifer.

The bill allows a municipality to inject fresh drinking water into a well transecting the Edwards Aquifer as part of an engineered Aquifer Storage and Recovery system. Construction, permitting, and monitoring of the well will be overseen by the Texas Commission on Environmental Quality. The bill applies specifically to the City of Buda in an area of the Trinity Aquifer managed by the Barton Springs Edwards Aquifer Conservation District.

SB 520 – Storage and Recovery of Water in the Edwards Aquifer

Sponsored by Rep. Kuempel

Allows the City of New Braunfels to inject fresh water with a total dissolved solids concentration of less than 1,500 milligrams per liter into a portion of the Edwards Aquifer that contains groundwater with a total dissolved solids concentration of more than 5,000 milligrams per liter.

SB 563 – Reporting the Use of Federal Money for Flood Projects

Sponsored by Rep. Metcalf

Requires any state agencies and public higher education institutions that used or dispersed federal funds for flood research, planning, or mitigation projects to submit quarterly reports to the Texas Water Development Board (TWDB).

According to the bill, the report must include total federal funds received, funds used to date, and eligibility requirements for the funding. TWDB must also make a publicly accessible database of this information available on its website.

SB 627 – Sunset Recommendations for the Red River Authority

Sponsored by Rep. Nevárez

Adopts certain Sunset Advisory Commission recommendations for the Red River Authority (RRA) and requires RRA to undergo Sunset review again as if it were a state agency scheduled to be abolished September 1, 2031.

The bill further requires RRA's board of directors to establish a process to ensure that, before RRA made a significant rate change, it would provide affected persons with notice of the proposed change and an opportunity for public comment. The process must include notice of the proposed change both on RRA's website and in an affected person's utility bills.

RRA must also adopt an asset management plan as specified in the bill. The plan must be approved annually by the board as part of the budgeting process and be publicly posted on RRA's website.

Land Management and Conservation

SB 345 – Conserving the William Goodrich Jones State Forest

Sponsored by Rep. Toth

Requires the Jones State Forest to remain natural, scenic, undeveloped, and open in a manner that maintains the tree canopy cover of the forest.

No statute, rule, policy or ordinance could be enforced with respect to the territory unless it protected and conserved the natural resources, air quality, and water quality of the forest.

Radioactive Waste

HB 2203 – Relating to Notice of a Radioactive Substance Release

Sponsored by Sen. Kolkhorst

Modifies the Health and Safety Code to require the Department of State Health Services or any other state agency that receives a required report of a release of a radioactive substance into the environment to immediately provide notice to each political subdivision of the state into which the substance was released.

The bill requires the notice to include the name, quantity, and state of matter of the radioactive substance, if known, and the information contained in the notice deemed confidential and not subject to disclosure under the state public information law.

Reorganization and Coordination

HB 2794 – Transferring Administration of the Division of Emergency Management

Sponsored by Sen. Kolkhorst

Transfers the administration of the Texas Division of Emergency Management (TDEM) from the Texas Department of Public Safety (DPS) to the Texas A&M University System and maintains all previously established rules, policies, procedures, and decisions. All employees of TDEM as operated by DPS will become employees of TDEM under the A&M System.

The transfer and related administrative changes are effective as of September 1, 2019.

Solid Waste

HB 1435 – Solid Waste Management Facility Site Inspection Permitting

Sponsored by Sen. Birdwell

Requires the Texas Commission on Environmental Quality (TCEQ), before a permit for a proposed municipal solid waste management facility is issued, amended, extended, or renewed, to inspect the facility or site used or proposed to be used to store, process, or dispose of municipal solid waste to confirm information included in the permit application.

The bill authorizes TCEQ to prescribe the kinds of information in a permit application that require confirmation.

Water Quality and Pollution Control

HB 1052 – Allowing Public-Private Partnerships for the Texas Water Development Board

Sponsored by Sen. Perry

Authorizes the Texas Water Development Board’s State Participation Fund account to be used for desalination, aquifer storage and recovery (ASR), and interregional projects not in the State Water Plan.

The new program allows the board to enter into an agreement with a private entity (in addition to a public entity) thus providing a public-private partnership option that does not currently exist within the State Water Implementation Fund for Texas program.

Further, the bill amends current law relating to the authority of the Texas Water Development Board to use the state participation account of the water development fund to provide financial assistance for the development of certain facilities.

HB 3142 – Addressing Reporting Requirements for Public Water Systems

Sponsored by Sen. Johnson

Amends the Health and Safety Code to require the Texas Commission on Environmental Quality (TCEQ) to establish a system to provide automatic reminders to public drinking water supply systems about regular reporting requirements applicable to the systems under the federal Safe Drinking Water Act and under state statutory provisions relating to minimum standards of sanitation and health protection measures that relate to TCEQ rules adopted under those laws.

The bill establishes that such an automatic reminder is a courtesy and that a public drinking water supply system is responsible for complying with applicable regular reporting requirements regardless of whether TCEQ provides automatic reminders.

HB 722 – Relating to the Development of Brackish Groundwater

Sponsored by Sen. Perry

Allows groundwater conservation districts to adopt rules governing permits to produce brackish groundwater.

The bill also sets requirements for permit applications and for brackish groundwater production in those districts.

SB 911 – Supervision of Water Districts by the Texas Commission on Environmental Quality

Sponsored by Rep. Nevárez

Enhances the Texas Commission on Environmental Quality’s (TCEQ) statutory supervisory role after issues are raised by a district’s annual audit report.

Specifically, the bill amends the water code to replace the phrase “competence, fitness, and reputation” with the word “qualifications.” Additionally, clarifies that the state Office of Administrative Hearings will conduct a hearing instead of a hearing examiner appointed by TCEQ.

Finally, the legislation also amends the water code to specify that after reviewing a district's annual audit report, the executive director of TCEQ may request additional information from the district. This information must be provided within 60 days, unless extended by the executive director for good cause, and it specifies that the executive director may review and investigate a district's financial records and conduct an on-site audit of a district's financial information.

SB 942 – Modifying State Water Pollution Control Revolving Fund

Sponsored by Rep. Metcalf

Amends the Water Code to revise the purpose of the state water pollution control revolving fund and to revise the conditions under which the Texas Water Development Board (TWDB) may use the revolving fund to make a loan.

Authorizes TWDB to use the fund for financial assistance only as provided by the federal act to make loans, on the conditions that principal and interest payments will begin no later than one year after completion of the project to be financed and the loan will be fully amortized not later than the expiration date of the term of the loan, rather than not later than one year after completion of any treatment works and all loans will be fully amortized not later than 20 years after completion of the treatment works.

U.S. VIRGIN ISLANDS

The U.S. Virgin Islands adopted 1 environmental bill during their ongoing 2019 legislative session. SB 32-0241 requires the establishment of a protocol for evacuating medical patients during an emergency.

Environmental Legislation

Emergency Management and Homeland Security

SB 32-0241 – Emergency Management Planning and Council Staffing

Sponsored by Sen. DeGraff

Provides that the Virgin Islands Territorial Emergency Management Plan must include a protocol for medical patients and others who need to be evacuated off-island.

The bill also establishes that the Governor must include the Commissioners of Health and Human Services as members of the Virgin Islands Territorial Management and Homeland Security Council.

VIRGINIA

Virginia adopted 47 energy and environmental bills during the 2019 legislative session. Notably, it established a Clean Energy Advisory Board with HB 2741 for the purpose of establishing a pilot program for allocating loans or rebates for solar energy infrastructure in low- and middle-income homes. HB 2691 continues the trend of establishing pilot programs under which Dominion Energy and Appalachian Power may submit a petition to provide or make available broadband capacity.

Energy Legislation

Alternative Energy Development

HB 2485 – Industrial Development Authority Support for Landowner Access to Carbon Markets

Sponsored by Del. Hodges

Authorizes an industrial development authority to facilitate and support landowner access to carbon markets through aggregation of landowners to reach a size that attracts the investment of private capital.

HB 2621/SB 1091 – Site Approval Plan Modifications for Solar Equipment

Sponsored by Del. Ingram / Sens. Reeves and Stanley

Requires a locality, as part of the local legislative approval process or as a condition of approval of a site plan, to require an owner, lessee, or developer of real property to enter into a written agreement to decommission solar energy equipment, facilities, or devices upon certain terms and conditions, including right of entry by the locality and financial assurance. This bill incorporates SB 1398 and is identical to HB 2621.

HB 2741 – Establishing the Clean Energy Advisory Board

Sponsored by Del. Aird

Establishes the Clean Energy Advisory Board as an advisory board in the executive branch of government for the purpose of establishing a pilot program for disbursing loans or rebates for the installation of solar energy infrastructure in low-income and moderate-income households.

The bill provides that the Board must have a total membership of 15 members, consisting of 14 nonlegislative citizen members and the Director of the Department of Mines, Minerals and Energy, who will serve ex officio. It further establishes the Low-to-Moderate Income Solar Loan and Rebate Fund to be used to fund loans or rebate payments to electric customers who complete solar installations or energy efficiency improvements.

The act also provides that the pilot program is open to any Virginia resident whose household income is at or below 80 percent of the state median income or regional median income, whichever is greater. The bill establishes application requirements and procedures for the review and approval or denial of applications. The bill requires that each applicant document the installation of energy efficiency services to demonstrate that such services lower home energy consumption by at least 12 percent prior to the submission of an application. The bill has an expiration date of July 1, 2022.

HB 2747/SB 1707 – Establishing the Southwest Virginia Energy Research and Development Authority

Sponsored by Del. Kilgore / Sen. Chafin

Creates the Southwest Virginia Energy Research and Development Authority to promote opportunities for energy development in Southwest Virginia, to create jobs and economic activity in Southwest Virginia consistent with the Virginia Energy Plan, and to position Southwest Virginia and the Commonwealth as a leader in energy workforce and energy technology research and development.

The authority will be composed of 11 nonlegislative members, of whom four will be appointed by the Governor, four will be appointed by the Speaker of the House, and three will be appointed by the Senate Committee on Rules. The authority is charged with, among other tasks:

- Leveraging the strength in energy research and workforce development of Virginia’s public and private institutions of higher education;
- Supporting the development of pump storage hydropower in Southwest Virginia and energy storage generally;
- Promoting the development of renewable energy generation facilities on brownfield sites, including abandoned mine sites;
- Promoting energy workforce development; and
- Assisting energy technology research and development by promoting the development of a Southwest Virginia Energy Park. The bill has a sunset date of July 1, 2029.

Coal and Minerals

HB 2786/SB 1355 – Closing Coal Combustion Residual Impoundments

Sponsored by Dels. Ingram, Kilgore, Marshall, and Wilt / Sens. Wagner, Rosalyn, Chase, and Surovell

Requires the owner or operator of any coal combustion residuals (CCR) unit, defined in the bill to include a coal ash pond or landfill, within the Chesapeake Bay watershed at Bremo Power Station, Chesapeake Energy Center, Chesterfield Power Station, and Possum Point Power Station to close such CCR unit by removing all of the CCR for recycling, known as encapsulated beneficial use, or deposition in a permitted and lined landfill that meets certain federal standards.

The measure also requires that any owner or operator beneficially reuse no less than 6.8 million cubic yards in aggregate of such removed CCR from no fewer than two of the sites. Such a closure project must be completed within 15 years of its initiation and must be accompanied by an offer by the owner or operator to provide connection to a municipal water supply for every residence within one-half mile, or if such connection is not feasible, the owner or operator must offer to provide water testing for any such residence.

HB 1932 – Mineral Mining Permit Fee Adjustment

Sponsored by Del. Ware

Permit fees; mineral mining. Provides a schedule for increases to fees a mining operator must pay when applying for a mining operation permit renewal, raising the current fee of \$16 per disturbed acre by \$2 each year from July 1, 2019, through July 1, 2022.

Emergency Management and Homeland Security

HB 2133 – Reporting Requirements for the Department of Emergency Management

Sponsored by Del. Jones

Eliminates the Virginia Department of Emergency Management’s requirement to submit an annual Commonwealth Threat and Hazard Identification and Risk Assessment to the Governor and general assembly.

The bill also consolidates other additional annual reporting requirements into one annual tabulated report called the Virginia Comprehensive Emergency Management Report, which must be submitted by the State Coordinator of Emergency Management to the Secretary of Public Safety and Homeland Security and the Chairmen of the Senate Committee on Finance, the Senate Committee for Courts of Justice, the House Committee on Appropriations, and the House Committee on Militia, Police and Public Safety by November 1 of each year.

Energy Efficiency

SB 1662 – Concerning Approval of Energy Efficiency Programs

Sponsored by Sen. Wagner

Provides that any determination by the State Corporation Commission that an energy efficiency program is not in the public interest must include with its final order the work product and analysis conducted by the staff of the Commission in making that determination.

The measure provides that any utility petitioning the Commission for approval of one or more rate adjustment clauses for energy efficiency programs must include a proposed budget for the design, implementation, and operation of the energy efficiency programs. The bill also requires that any rate adjustment clause approved for an energy efficiency program remain in effect until the utility exhausts the approved budget for the energy efficiency program.

HB 2192/SB 1331 – Modernizing Public School Facilities

Sponsored by Del. Rush / Sen. Stanley and Sturtevant

Provides that it is the legislative intent that public school buildings and facilities be designed, constructed, maintained, and operated to generate more electricity than consumed, and allows local school boards to enter into leases with private entities to achieve that goal if the school board owns or operates a school building or facility that has been properly modernized, generates energy derived from sunlight, and if the solar generating facility is properly interconnected.

The bill also provides that private entities that contract with local school boards to modernize public school buildings and facilities may receive financing from the Virginia Small Business Financing Authority.

HB 2789 – Energy Conservation Incentives

Sponsored by Del. O’Quinn

Directs the establishment of energy conservation measures providing incentives for the development of electric energy delivered from sunlight.

The bill requires Dominion Power and Appalachian Power Company to seek approval for a three-year program of energy conservation measures providing incentives to low income, elderly and disabled individuals in an amount not to exceed \$25 million in the aggregate for the installation of measures that reduce residential heating and cooling costs and enhance the health and safety of residents.

The measure also requires the utilities to develop a program of energy conservation measures providing incentives, open to low income, elderly and disabled individuals who also participate in the above-described incentive program, in an amount not to exceed \$25 million in the aggregate, for the installation of equipment to develop electric energy derived from sunlight. The measure provides that the utilities may provide such incentives directly to customers or to organizations that assist low income, elderly and disabled individuals.

The act directs that in developing such incentive programs, each utility must consider low income, elderly and disabled persons residing in housing that a redevelopment and housing authority owns or controls.

HB 2292 – Energy Efficiency Program Requirements

Sponsored by Del. Sullivan

Provides that any determination by the State Corporation Commission that an energy efficiency program is not in the public interest must include with its final order the work product and analysis conducted by the staff of the Commission in making that determination.

The measure requires that if the Commission reduces the proposed budget for a program or portfolio of programs, its final order must include an analysis of the impact such budget reduction has upon the cost-effectiveness of such program or portfolio of programs.

An order by the Commission finding that a program or portfolio of programs is not in the public interest or reducing the proposed budget for any program or portfolio of programs must adhere to existing protocols for extraordinarily sensitive information.

The measure also provides that any utility petitioning the Commission for approval of one or more rate adjustment clauses for energy efficiency programs must include a proposed budget for the design, implementation, and operation of the energy efficiency programs. Finally, the bill requires that any rate adjustment clause approved for an energy efficiency program remain in effect until the utility exhausts the approved budget for the energy efficiency program.

HB 2293/SB 1605 – Stakeholder Process for Energy Efficiency Programs

Sponsored by Del. Sullivan / Sen. Ebbin

Requires the independent monitor chosen to facilitate the energy efficiency stakeholder process established for the purpose of providing input and feedback on the development of electric utilities' energy efficiency programs to convene meetings of the participants not less frequently than twice each calendar year between July 1, 2019, and July 1, 2028.

The measure also requires the independent monitor's report on the status of the stakeholder process to address:

- The objectives established by the stakeholder group during this process related to programs to be proposed;
- Recommendations related to programs to be proposed that result from the stakeholder process; and
- The status of those recommendations.

HB 1934 – Electric Vehicle Charging Stations Operation

Sponsored by Del. Bulova

Authorizes the Department of General Services, Department of Motor Vehicles, and Department of Transportation to locate and operate a retail fee-based electric vehicle charging station on property the agency controls if the electric vehicle charging services are offered at prevailing market rates, as defined in the bill.

The bill exempts such agencies 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 1271 – Oil and Gas Wells Bonding Requirements

Sponsored by Sen. Stuart

Authorizes a person who applies for a hearing in front of the Virginia Gas and Oil Board to provide required notice of such application to certain gas or oil owners, coal owners, mineral owners, or gas storage field operators by commercial delivery service. Current law provides for delivery only by certified mail.

The bill changes the blanket bond amounts that the Director of the Department of Mines, Minerals and Energy may require for an application for permits for gas or oil operations and authorizes additional bonds for any well proposed to be drilled in the Tidewater region.

HB 2555/SB 1165 – Sunset Extension for Local Gas Severance Tax

Sponsored by Del. Pillion / Sen. Chafin

Extends the sunset date from January 1, 2020, to January 1, 2022, for the local gas severance tax that is dedicated to the local Coal and Gas Road Improvement Fund, the Virginia Coalfield Economic Development Fund, and water, sewer, and natural gas systems and lines.

SB 1600 – Requirements for Motor Fuels Labeling

Sponsored by Sen. Dance

Requires every dispensing device used in the retail sale of motor fuel to identify the motor fuel and be labeled in accordance with a publication of the National Institute of Standards and Technology.

The measure authorizes the Board of Agriculture and Consumer Services to amend or reject such identification or labeling requirements. Existing provisions regarding the labeling of motor fuel dispensing devices are removed.

SB 1176 – Investigative Reports Concerning Natural Gas Utilities Public Availability

Sponsored by Sen. Petersen

Requires the State Corporation Commission, within 30 days following receipt of a written request, to make available for public inspection a report regarding the finalized enforcement action or investigation regarding the death or personal injury necessitating inpatient hospitalization of any person or damage to property exceeding \$50,000 resulting from a leak or other incident involving the intrastate facilities of a natural gas utility operator.

The measure prohibits such a report from revealing infrastructure information regarding:

- Certain buildings, structures, or facilities;
- Risk assessment information not provided to the public by the utility operator;
- Certain security plans and measures;
- Confidential or sensitive information; proprietary information; and
- Information that would jeopardize the safety or security of any person, governmental facility, building, or structure, or private commercial office, residential, or retail building.

Reorganization and Coordination

HB 2008/SB 1348 – Establishing Energy Career Clusters

Sponsored by Del. Garrett / Sens. Newman and Peake

Requires the Department of Education, in consultation with representatives from pertinent industries such as renewable energy, natural gas, nuclear energy, coal, and oil, to establish an energy career cluster.

The bill requires the Department of Education to base the knowledge and skill sets contained in such energy career cluster on the energy industry competency and credential models developed by the Center for Energy Workforce Development in partnership with the U.S. Department of Labor.

The bill further requires the Department of Education to report to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health no later than December 1, 2019, on its progress toward establishing such energy career cluster.

Utilities

HB 1840 – Establishing a Pilot Program for the Construction of Electric Transmission Facilities

Sponsored by Del. Marshall

Directs the Virginia Economic Development Partnership to establish pilot programs by Dominion Energy Virginia and Appalachian Power.

The pilot programs have the purpose of promoting economic development in opportunity zones of the Commonwealth by allowing each utility to complete the construction phase of electric transmission infrastructure for up to three business parks prior to the public announcement of a prospective occupant of the business parks.

According to the bill, electric cooperatives may also petition the State Corporation Commission to participate in the pilot program. The measure authorizes a utility to recover the costs of the transmission facility through a rate adjustment clause. The provisions of the measure expire on December 31, 2023.

SB 1759 – Establishing an Underground Utility Lines Pilot Program

Sponsored by Sen. Surovell

Establishes a pilot program under which the governing body of any locality operating under the urban county executive form of government (Fairfax County) may request an electric utility to place underground electric utility distribution lines in transportation projects to serve and facilitate the creation of transit-oriented development in such locality in conjunction with a transportation infrastructure improvement project that the Commonwealth Transportation Board identifies that reduces congestion, improves mobility, incorporates transit systems and improves safety.

The measure provides that the locality and the utility must enter into an agreement that provides the following:

- The locality must pay to the utility its full additional costs of relocating and converting that portion of the line located in the locality underground rather than overhead that are not recoverable under applicable rates, net of relocation credits, which costs must include associated feasibility costs, or any smaller portion of such costs as the utility and the locality may agree;
- The locality must impose an additional levy on electric utility customers in the locality in an amount sufficient to cover the utility's additional costs, which levy must not exceed \$1 per month on residential customers and must be collected by the utility on behalf of the locality;
- The utility must convert, operate, and maintain the agreed portion of the line underground; and
- Other terms and conditions on which the parties may agree must be included in the agreement.

The measure provides that upon presentation of the agreement to the Commonwealth Transportation Board, the Commissioner of Highways must be responsible for securing the necessary easements and permits for the pilot program, and the program terminates on July 1, 2022.

HB 2547 / SB 1769 – Net Energy Metering Requirements

Sponsored by Del. Hugo / Sen. Sturtevant

Establishes requirements for net energy metering by electric cooperatives effective upon the earlier of July 1, 2019, or the effective date of implementing regulations by the State Corporation Commission.

Instances where the new net energy metering program's requirements differ from those of the existing program include:

- The cap on the capacity of generating facilities, which will initially be two percent of system peak for residential customers, two percent of system peak for not-for-profit and nonjurisdictional customers, and one percent of system peak for other nonresidential customers;

- Authorizing an electric cooperative to raise these caps up to a cumulative total of seven percent of its system peak;
- Legalizing third-party partial requirements power purchase agreements for those retail customers and nonjurisdictional customers of an electric cooperative that are exempt from federal income taxation; and
- Establishing registration requirements for third-party partial requirements power purchase agreements, including a self-certification system under which a provider is required to affirm certain information to Commission staff, under penalty of revocation of its registration.

The measure further authorizes the board of directors of an electric cooperative to adjust its rates, terms, conditions, and rate schedules governing net energy metering and prohibits a cooperative after the date of such an adjustment from collecting stand-by charges. The measure authorizes an electric cooperative to adopt a new rate schedule or rider containing demand charges based upon a net energy metering customer's noncoincident peak demand and provides for alternative caps on its net energy metering program.

The measure also authorizes a cooperative's fixed monthly charge covering the fixed costs of owning and operating its electric distribution system as an alternative to volumetric charges associated with demand and to rebalance among any of the fixed monthly charge, distribution demand, and distribution energy charges. The measure declares that an investor-owned utility participating in the pilot program for community solar development to move the Commission to make its pilot program permanent.

Finally, the measure also requires Dominion Power to:

- Convene a stakeholder process, using an independent facilitator, to make recommendations to the utility concerning issues related to the implementation of advanced metering technology and related investments in customer information systems;
- Submit to the Commission for approval retail rate schedules designed to offer time-varying pricing; and
- Submit to the Commission for approval an incentive program for the installation of solar equipment for customers served under time-varying retail rate schedules that have advanced-metering technology equipment.

HB 2477 – Incumbent Electric Utility Payment Requirements

Sponsored by Del. Kilgore

Provides that customers of an incumbent electric utility that is required to obtain capacity for all load and expected load growth in its service area must, if they purchase energy from a supplier licensed to sell retail electric energy within the Commonwealth, continue to pay their incumbent electric utility for the non-fuel generation capacity and transmission related costs incurred by the incumbent electric utility in order to meet such customers' capacity obligations.

The measure provides that the advance written notice period applicable to such customers must be three years, and does not apply to customers of licensed suppliers that had an agreement with a licensed supplier entered into before February 1, 2019, or had aggregation petitions pending before the State Corporation Commission prior to January 1, 2019, unless and until such a customer has returned to its incumbent electric utility. The measure also requires each licensed retail supplier serving customers of Appalachian Power to file annual reports with the Commission and provides that the failure to do so constitutes grounds for suspension or revocation of its license.

HB 2691 – Pilot Programs for Electric Utilities to Provide Broadband

Sponsored by Del. O'Quinn

Requires the State Corporation Commission to establish pilot programs under which Dominion Energy and Appalachian Power may submit a petition to provide or make available broadband capacity to nongovernmental Internet service providers in areas of the Commonwealth that are unserved by broadband.

The costs of Dominion Power and Appalachian Power's proposals are each capped at \$60 million annually. The provision of such broadband capacity is declared to be in the public interest. The measure authorizes the utilities to recover the net costs of the pilot program from customers through a rate adjustment clause. The measure authorizes such utility to own or lease broadband capacity equipment, and it requires the Commission to conduct proceedings to determine whether an area is unserved by broadband.

HB 2738/SB 1695 – Rights-of-Way Requirements for Public Utilities

Sponsored by Del. Bagby / Sen. Wagner

Authorizes a public utility providing water, sewer, electric, or natural gas service to propose an Economic Development Program under which it may acquire utility right-of-way for one or more qualified economic development sites.

A proposal for a Program is required to include an analysis of how acquiring the rights-of-way will enhance the Commonwealth's infrastructure and promote the Commonwealth's competitive business environment by improving the readiness of a qualified economic development site. The measure establishes criteria for the Virginia Economic Development Partnership Authority to certify that an industrial site is a qualified economic development site. The State Corporation Commission (SCC) is authorized to approve a proposal for a Program that satisfies certain conditions, including findings that implementation of the Program will provide significant economic development benefits that might not otherwise be attained absent its approval and the program is designed only to acquire utility rights-of-way to a qualified economic development site and not to provide service to other customers or potential customers.

Finally, a utility's capital investment is capped at one percent of gross plant investment in the aggregate of all the utility's Programs and at \$5 million for any specific qualified economic development site.

HB 2332 – Rules Regarding Customer Data at Electric Utilities

Sponsored by Del. Keam

Requires the State Corporation Commission to convene and facilitate a Data Access Stakeholder group to review and consider certain elements of electric utility customer privacy considerations, including data sharing, protection of customers' personally identifiable information, opt-in/opt-out conditions for access to customers' utility usage data by the electric utility, and notice requirements by utilities to customers regarding energy usage data being collected.

The measure also requires the Data Access Stakeholder group to conclude its work no later than April 1, 2020, and report its recommendations to the general assembly.

HB 2792 – Establishing Municipal Net Energy Metering Pilot Program

Sponsored by Del. Tran

Directs the State Corporation Commission to establish a pilot program that affords the opportunity for any locality to participate in net energy metering if it is a retail customer of a certain type of investor-owned electric utility.

In order to qualify for the program, the locality is required to own and operate a renewable generating facility with a generating capacity of not more than two megawatts that is located on the municipality's premises and is intended primarily to offset all or part of the locality's own electricity requirements. Under the pilot program, a municipal customer-generator that generates electricity in amounts that exceed the amount of electricity consumed by the municipal customer-generator, determined annually, to credit one or more of the municipality's target metered accounts in order that the generation energy charges on the electric bills of the target's metered accounts are reduced by the amount of excess generation kilowatt hours apportioned to the metered account multiplied by the applicable generation energy rate of the target's accounts.

In Appalachian Power's service territory, metered accounts of the public school division of a locality may be target accounts. The amount of generating capacity of all generating facilities that are the subject of a pilot program are limited to five megawatts if Appalachian Power is the pilot program utility, though the utility may increase the amount to up to 10 megawatts or 25 megawatts if Dominion Power is the pilot program utility. Such aggregated capacities of

the generation facilities that are the subject of a pilot program constitute a portion of the existing limit of the utility's adjusted Virginia peak-load forecast of the previous year that is available to municipal customer-generators, eligible customer-generators, eligible agricultural customer-generators, and small agricultural generators in the utility's service area. The duration of the pilot program is six years.

SB 1346 – Rate Adoption Rules for Electric Cooperatives

Sponsored by Sen. Newman

Authorizes any electric cooperative to if it does not hold a membership interest in a utility aggregation cooperative, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the costs of generation facilities, modifications to generation facilities, or pumped hydroelectricity generation and storage facilities or adopt any other cooperative's voluntary rate, voluntary program, or voluntary tariff.

Environmental Legislation

Coastal Zone Management

SJR 309 – Establishing Study of Protection Zones for Submerged Fiber Optic Cables

Sponsored by Sen. DeSteph

Requests the Virginia Marine Resources Commission to study the feasibility of creating protection zones for submerged fiber optic cables located along Virginia's shores.

Inland Water Resource Management and Conservation

HB 2358/SB 1414 – Establishing Potomac Aquifer Recharge Monitoring Advisory Board

Sponsored by Del. Jones / Sen. Mason

Creates an advisory board and a laboratory to monitor the effects of the Sustainable Water Infrastructure for Tomorrow (SWIFT) Project being undertaken by the Hampton Roads Sanitation District.

HB 2403 – Permit Requirements Related to Wetlands

Sponsored by Del. Hodges

Requires the State Water Control Board to evaluate Virginia Water Protection Permits mitigation options for impacts to wetlands on a case-by-case basis with consideration for which option is practicable and ecologically and environmentally preferable, including, in terms of replacement of acreage and functions, which option has the greatest likelihood of success and avoidance of temporal loss of acreage and function.

HJR 792 / SJR 343 – Commending New River Valley Regional Commission

Sponsored by Del. Rush / Sen. Chafin

Commends the New River Valley Regional Commission on its 50th anniversary.

SB 1400 – Regarding Stormwater Management Improvement Loans

Sponsored by Sen. Petersen

Authorizes any locality, by ordinance, to authorize contracts to provide loans for the initial acquisition and installation of stormwater management improvements with free and willing property owners of both existing properties and new construction.

SB 1413 – Leasing Assignments for Oyster Planting Grounds

Sponsored by Sen. Mason

Authorizes the Commissioner of Marine Resources to decide which area within a riparian owner's waters must be assigned for planting oysters and removes the \$1.50 fee of such assignment.

The bill changes various provisions related to oyster-planting grounds, including:

- Increasing the application fee for an assignment of general or riparian oyster-planting grounds;
- Authorizing the Commissioner to consider the public benefits and impacts of shellfish aquaculture or whether a transfer or renewal of an oyster-planting lease is in the public interest when determining whether to allow such transfer or renewal of an assignment;
- Directing the Marine Resources Commission to adopt regulations related to license renewal fees; and
- Increasing the application fee for a transfer of an oyster-planting lease.

SB 1599 – Regulating Withdrawal of Water from Surficial Aquifer

Sponsored by Del. Lewis

Directs the State Water Control Board to adopt regulations providing incentives for the withdrawal of water from the surficial aquifer, rather than the deep aquifer, in the Eastern Shore Groundwater Management Area, as defined in the bill.

Such incentives may include extended permit terms of as long as 20 years, an accelerated permit process, or discounted permit fees.

Land Management and Conservation

HB 1715 – Wetland Vegetation Exemptions

Sponsored by Del. Bulova

Exempts wetland vegetation growing on certain regulated impounding structures from the requirement that all vegetation be removed from such dams.

The bill exempts vegetation associated with a wetland mitigation bank or in-lieu fee site that has regulatory approval and is the subject of a recorded, permanent instrument protecting the vegetation from removal.

The act also allows the Department of Conservation and Recreation to require the dam owner to remove trees by flush cutting unless the Department determines based on site-specific information that the grubbing of roots is necessary to protect the integrity of the dam.

HB 1779 – Assigning Eligibility for Riparian Planting Grounds

Sponsored by Del. Bloxom

Authorizes the Commissioner of the Marine Resources Commission to assign to a land owner who is eligible to apply for riparian planting grounds only a planting ground that the Commissioner, in his discretion, deems appropriate to encompass as much as one-half acre of ground.

The bill authorizes the Commissioner to consider assigning an area that the owner designates within his riparian waters and provides that the assignment must not extend farther than the nearest edge of the channel or the middle of the body of water, whichever is the shorter distance. The bill removes a provision stating that the fee for such assignment is \$1.50.

HB 1816 – Land Preservation Tax Credit Extension

Sponsored by Del. Fariss

Extends the amount of time a taxpayer is allowed to claim the land preservation tax credit to either December 31 of the second year following the calendar year of the eligible conveyance if the conveyance was made on or after January 1, 2020, or December 31 of the third year following the calendar year of the eligible conveyance if the conveyance was made before January 1, 2020.

HB 2009 – Ranking Virginia Land Conservation Foundation Project Proposals

Sponsored by Del. Krizek

Directs the Virginia Land Conservation Foundation to conduct a grant round each year to identify and rank projects for the subsequent fiscal year.

The bill requires the Foundation to assume an amount of funding of the grant program as provided in the general appropriation act, and to provide rankings to the House Committee on Appropriations and the Senate Committee on Finance by December 15 of each year.

HB 2058 – Rules Regarding Remote Access to Land Records

Sponsored by Del. Carr

Exempts the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, and the Virginia Alcoholic Beverage Control Authority from paying any fee for remote access to land records.

The bill also provides that if a clerk of the circuit court who provides secure remote access to land records contracts with an outside vendor to provide such remote access to subscribers, such contract must contain a provision exempting the Department of General Services, the Department of Conservation and Recreation, the Department of Forestry, and the Virginia Alcoholic Beverage Control Authority from paying any access or subscription fee.

The bill further provides that when an agreement for such remote access is made between a state agency and the clerk or an outside vendor, the agreement must provide that the state agency is required to monitor its employees' activity under such agreement to ensure compliance with its terms.

HB 2637 – Authorizing Loans and Grants for Agricultural Purposes

Sponsored by Dels. Weibert and Wilt

Authorizes the State Water Control Board to issue loans and grants from the Virginia Water Facilities Revolving Fund for the construction, renovation, improvement, or equipping of facilities or structures to implement agricultural best management practices to prevent pollution of state waters.

The bill includes among the types of facilities or structures for which a loan or grant may be issued riparian buffers planted in trees and maintained in accordance with the terms and conditions of the loan or grant.

HB 2411/SB 1469 – Rules Regarding Timber Sales and Establishing Theft Penalties

Sponsored by Dels. Adams and Austin / Sens. Chafin and Dance

Provides that a person who buys and removes timber from a landowner's property is guilty of timber theft if he fails to pay the landowner by the date specified in their agreement or, if there is no written agreement, within 60 days of removing the timber.

The bill provides that a person who is convicted of timber theft is guilty of a Class 1 misdemeanor and must be ordered to pay three times the value of the timber removed in addition to any penalties imposed by the court. The bill further provides that, following the passing of the payment deadline, a buyer's failure to pay within 10 days of receiving a demand for payment must constitute prima facie evidence of the buyer's intent to violate the timber theft provision. An exception exists for a purchaser who made payment to a person he believed in good faith to be the rightful owner of the timber.

HB 2482 – Land Preservation Tax Credits Agreements

Sponsored by Del. Hodges

Provides that if Virginia or one of its political subdivisions operates a facility on land donated for a land preservation tax credit, including charging fees for the use of such facility, such operation of a facility must not disqualify the donation from eligibility for the credit, so long as any fees are used for conservation or preservation purposes.

The bill provides that if Virginia or one of its political subdivisions contracts with a third party to manage a facility on donated land, such agreement must not disqualify the donation from eligibility for the credit, so long as such agreement is for conservation or preservation purposes.

HR 262/SJR 399 – Commending State Forests

Sponsored by Del. Edmunds / Sen. Peake

Commends Virginia’s State Forests the occasion of the 100th anniversary of the establishment of the first such forest.

HR 419/SJR 440 – Conservation Trust Commendation

Sponsored by Del. Keam / Sen. Surovell

Commends the Northern Virginia Conservation Trust on its 25th anniversary.

Water Quality and Pollution Control

HB 1822 – Allocating Funds for Wastewater Conveyance Infrastructure

Sponsored by Dels. Bulova and Turpin

Authorizes the Director of the Department of Environmental Quality to authorize grants from the Virginia Water Quality Improvement Fund for the installation of certain wastewater conveyance infrastructure. Any such infrastructure must:

- Divert wastewater from one publicly owned treatment works that is eligible for grant funding to another such eligible treatment works;
- Divert wastewater to a receiving treatment works that can achieve compliance with its nutrient reduction or ammonia control discharge requirements and that results in a net reduction in total phosphorus, total nitrogen, or nitrogen-containing ammonia discharges; and
- Result in no more expense to the Fund than would otherwise be incurred to install eligible nutrient removal technology or other treatment technology at the treatment works from which the wastewater will be diverted.

HB 2811 – Certifying Department of Health Authority Over Water Pollution Control Projects

Sponsored by Dels. Webert and Guzman

Adds to the duties of the Virginia Department of Health the duty of serving as a state certifying authority in determining conformity with state requirements for certain tax-exempt water pollution control projects.

HJR 980 – Clean Water Farm Award Recognition

Sponsored by Del. Marshall

Commends the ten River Basin Grand Winners of the Clean Water Farm Award.

WEST VIRGINIA

West Virginia adopted 22 energy and environmental bills during the 2019 legislative session. As with Kentucky, SR 75 urged the President to sign the Appalachian Sky Executive Order to compensate for the decline of the coal industry. HB 2452 established the Cybersecurity Office and authorizes the establishment of a cybersecurity framework for state agencies under the director of the Chief Information Security Officer.

Energy Legislation

Coal and Minerals

HB 3144 – North Central Appalachian Coal Severance Tax Rebate Act

Sponsored by Del. Hartman

Provides for a rebate of severance tax when capital investment made in new machinery, equipment, or improvements to real property are used directly in the severance of coal or in coal preparation and processing plants.

The bill also establishes rules and procedures for claiming rebate and transfer to successors and imposes a recapture tax in certain circumstances.

HB 3142 – Relating to Thermal Tax Reduction on Thermal or Steam Coal

Sponsored by Del. Householder

Reduces the severance tax on thermal or steam coal from five to three percent and eliminates restrictions on counties and municipalities expending and reporting the expenditure of the county and municipality portion of the severance tax.

SB 635 – Relating Generally to Mining

Sponsored by Sen. Smith

Eliminates the requirement for submission of the community impact statement and requirements for the submission of certain additional information.

The bill requires the following:

- Submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development;
- Review of new mining activity for submission to the Office of Coalfield Community Development; and
- The Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners.

The bill creates a tax credit of 50 percent of the entity's capital expenditures for post coal mine site development and establishes eligibility and applications for the credit. The Secretary of the Department of Environmental Protection is authorized to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act and to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act.

The bill also establishes that a miner who was issued an assessment violation to either pay the fine or appeal a violation within 30 days. Employers are further permitted to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property and miners testing positive for drug use must undergo a mandatory minimum six-month suspension.

The act requires the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive and eliminates timing requirements for submission of a detailed mine ventilation plan to the Director of the office.

Apprentice miners are now required to work at least 90 days in a mine within sight and sound of a mine foreman or assistant foreman and the Director of the Office of Miners' Health, Safety, and Training must promulgate emergency rules for establishing a course of instruction for such miners. The director of the Office of Miners' Health, Safety, and Training may decertify miners who fail to perform daily examinations.

The bill establishes the mine trespass criminal statute with increased liability and enhanced penalties for bodily injury or death during rescue operations. Mine trespass may also result in the revocation of certifications. The bill declares that mine owners, the state, and person or entities engaged in rescue operations must be held harmless for injury or death resulting from mine trespass and exempts lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute.

SR 53 – Recognizing the Increase in Black Lung in West Virginia

Sponsored by Sen. Stollings

Recognizes the recent increase in black lung cases in West Virginia whereas West Virginia has seen an 11 percent increase in progressive massive fibrosis, considered the worst form of black lung, since 1972.

SR 75 – In Support of the Appalachian Sky Executive Order

Sponsored by Sen. Carmichael

Encourages the Honorable Donald J. Trump, President of the United States, to sign the Appalachian Sky Executive Order and bring much needed economic opportunity to regions of West Virginia and neighboring states whose workforce provided the coal and other materials that, according to the legislature, made America great and secure, and make central Appalachia and West Virginia great again.

Natural Gas and Petroleum

HCR 93 – Natural Gas Deregulation Study

Sponsored by Del. Foster

Requests that the Joint Committee on Energy study legislation relating to the deregulation of natural gas for certain high-volume natural gas consumers. The committee is asked to report to the regular session of the legislature in 2020 any additional findings, conclusions, or recommendations with respect to the benefits that deregulation of the natural gas industry could have on West Virginia and its citizens, together with drafts of any legislation necessary to effectuate its recommendations. The resolution states that the expenses necessary to conduct this study, prepare a report, and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Energy.

HR 6 – Energy Resources and Infrastructure Recognition

Sponsored by Del. Higginbotham

Supports the ongoing and continued development of West Virginia's energy resources, pipeline, and energy infrastructure in the state and to attract end-users of electricity and natural gas to expand our state's economy and create family sustaining jobs.

HR 11 – Recognizing the Importance of the Atlantic Coast Pipeline

Sponsored by Del. Anderson

Condemns “counterproductive and economically damaging assaults” on the Atlantic Coast Pipeline and other urgently needed energy infrastructure projects.

The legislature declares that the assaults on the projects have great potential to damage the environment by hindering the deployment of electric generation powered by solar power, wind and other renewable resources, all of which must be backed up with fossil fuel powered generation, such as natural gas.

Reorganization and Coordination

HCR 87 – Requesting the Joint Committee on Government and Finance Study the Public Service Commission

Sponsored by Del. Howell

Requests that the Joint Committee on Government and Finance study the Public Service Commission to compare the interstate and intrastate regulation of haulers subjected to single, dual and multiple regulatory jurisdictions and report to the regular session of the legislature 2020 on its findings, conclusions and recommendations, together with any drafts of legislation necessary to effectuate any recommendations.

The resolution states that the Public Service Commission, the County and Regional Solid Waste Authorities, the Department of Environmental Protection, and the Division of Natural Resources must cooperate with the legislature and provide such information as may be necessary to perform the study.

Utilities

HB 117 – Reduced Utility Rates for Low-Income Residential Customers

Sponsored by Del. Hanshaw

Provides reduced rates for low-income residential customers of privately-owned water, sewer or combined water and sewer utilities.

HB 144 – Encouraging Industrial Site Development with Utility Incentives

Sponsored by Del. Hanshaw

Establishes a pilot program to encourage utility infrastructure development to certain lands.

The bill allows the secretary to certify sites that currently have no adequate public utility services from one or more public utilities regulated by the Public Service Commission as having potential for industrial development.

The Public Service Commission is required by the act to consider certain multi-year comprehensive plans for infrastructure development to construct public utility infrastructure and provide services to industrial development sites as certified by the secretary.

HB 207 – Exempting Certain Power Plants from Business and Occupation Taxes

Sponsored by Dels. Hanshaw and Miley

Exempts merchant power plants from the business and occupation tax imposed by existing law on the generating capacity of its generating units located in this state that are owned or leased by the taxpayer and used to generate electricity.

When the January 1, 2020, date falls during a taxpayer’s taxable year, the tax liability for that year must be prorated based upon the number of months before and the number of months beginning on and after January 1, 2020, in that taxable year, according to the bill.

As used in the legislation, the term “merchant power plant” means an electricity generating plant in this state that:

- Is not subject to regulation of its rates by the West Virginia Public Service Commission;
- Sells electricity it generates only on the wholesale market;
- Does not sell electricity pursuant to one or more long-term sales contracts; and
- Does not sell electricity to retail consumers.

SB 270 – Streamlining Process for Utilities Access to DOH Rights-of-Way

Sponsored by Sen. Carmichael

Allows the commissioner of the Division of Highways to lease real property held by the division or right in the property, including airspace rights, for the purpose of accommodating any utility providing telecommunications or broadband services that has requested a lease and such lease agreement is in the public interest.

The execution and governance of such accommodation leases are subject to the following:

- The term of any accommodation lease authorized by this law may not exceed 30 years;
- Neither competitive bids nor public solicitations are required prior to entering into a utility accommodation lease;
- Any utility accommodation lease must require the utility to pay fair market value for the real property interest as determined by the commissioner: Provided, That because the social, environmental, and economic benefits from such use of state highway rights-of-way is of overwhelming value to the citizens of this state and is in the overall public interest, the division must establish the fair market value for purposes of this article at \$0 in monetary compensation provided, however, that a utility accommodation lease may include provisions that convey the state in-kind compensation if the lease includes multiple districts of the Division of Highways;
- For any utility which is not subject to the jurisdiction of the Public Service Commission, an accommodation lease may not contain any exclusivity provisions;
- The provisions of this subsection do not require any utility to lease any real property, or any interest or right in the property, from the commissioner; and
- The ownership, control, or any rights related to any in-kind compensation received by the division may, upon written approval of the Governor, be transferred or assigned to any other state agency.

The bill also modifies the state’s “Dig Once” policy to define “direct bury” as burying of telecommunications wire or cable directly into the ground by means of plowing or direct insertion without the opening of a trench and without the installation of conduit or innerduct. It also states that a telecommunications carrier must compensate the division for the use of spare conduits or related facilities owned or controlled by the division. The compensation must be, without limitation at fair market value, provided that because the social, environmental, and economic benefits from such use of state highway rights-of-way is of overwhelming value to the citizens of this state and is in the overall public interest, the division must establish the fair market value for purposes of this article at \$0 in monetary compensation.

Computer Technology and Digital Innovation

HB 2452 – Creating the West Virginia Cybersecurity Office

Sponsored by Del. Hanshaw

Establishes the Cybersecurity Office and authorizes the establishment of a cybersecurity framework for state agencies under the director of the Chief Information Security Officer.

The framework will be developed and administered by the Chief Information Security Officer within the Office of Technology. The bill creates a minimum standard for cybersecurity controls for state agencies and requires cybersecurity assessments to determine the status of state agencies with respect to cybersecurity. The measure provides exceptions from application and from disclosure of certain information.

The act also requires annual reports to the Joint Committee on Government and Finance and to the Governor on the status of the cybersecurity program, including any recommended statutory changes.

Environmental Legislation

Air Quality and Pollution Control

SB 163 – Authorizing DEP to Promulgate Legislative Rules

Sponsored by Sen. Maynard

Authorizes the Department of Environmental Protection to promulgate a legislative rule relating to the following issues:

- Emission standards for hazardous air pollutants;
- Ambient air quality standards;
- Standards of performance for new stationary sources;
- Control of air pollution from hazardous waste treatment, storage, and disposal facilities;
- Requirements for determining conformity of transportation plans, programs, and projects developed, funded, or approved under the Federal Transit Laws to applicable air quality implementation plans (transportation conformity);
- Provisions for determination of compliance with air quality management rules;
- Cross-state air pollution rule to control annual nitrogen oxides emissions, annual sulfur dioxide emissions, and ozone season nitrogen oxides emissions; and
- Requirements governing water quality standards.

Inland Water Resource Management and Conservation

HB 2612 – Water Protection Plan Authority Amendments

Sponsored by Del. Hill

Authorizes the secretary of the Department of Environmental Protection to propose rules related to the completion or updating of source water protection plans including the implementation of a staggered schedule for the submission of source water protection plans by public water utilities and a schedule of submission that results in an initial period of greater than three years.

SB 675 – Requiring DEP to Establish an Adopt-a-Stream Program

Sponsored by Sen. Maynard

Requires the Department of Environmental Protection (DEP) to create and implement an Adopt-a-Stream Program to encourage the removal of litter along West Virginia's rivers and streams by volunteers.

SB 153 – Providing Greater Flexibility for Infrastructure Project Grants to the Water Development Authority
Sponsored by Sen. Jeffries

Allows the West Virginia Infrastructure Jobs and Development Council with the Water Development Authority to:

- Increase the amount of grant funds from 20 to 25 percent;
- Convert loan funds to grant funds when needed, meeting certain criteria; and
- Increase the funding assistance program from \$100,000 to \$500,000.

Land Management and Conservation

SB 404 – Sediment Control Amendments and Timbering Penalties
Sponsored by Sen. Sypolt

Increases the threshold amount before a logger must follow certain licensing requirements regarding sediment control.

The bill further requires the logger to notify the Director of the Division of Forestry at least three days before timbering begins and establishes certain training requirements prior to recertification of certified loggers.

The bill also revises criminal penalties for timbering operation violations such that a person who violates any provision of this law is guilty of a misdemeanor and, upon conviction, will be fined not less than \$250 nor more than \$500 for the first offense, not less than \$500 nor more than \$1,000 for a second offense, and not less than \$1,000 nor more than \$5,000, or confined in jail not more than 30 days, or both, for a third or subsequent offense.

SB 655 – Conservation Grant Program Administration
Sponsored by Sen. Trump

Clarifies the authority of the State Conservation Committee to operate and administer a conservation grant program and provides for financial assistance to conservation districts and others to promote approved conservation practices.

Reorganization and Coordination

HB 3140 – Clarifying Powers of Division of Natural Resources Director
Sponsored by Del. Cowes

Clarifies the ability of the Director of the Division of Natural Resources to authorize repair, renovation and rehabilitation for existing facilities, buildings, amenities, and infrastructure and exempting these certain Division of Natural Resource’s purchases from review and approval of the Division of Purchasing.

Water Quality and Pollution Control

HCR 83 – Establishes the West Virginia Distressed Water and Wastewater Utility Systems Viability Study Committee
Sponsored by Del. Hanshaw

Creates the West Virginia Distressed Water and Wastewater Utility Systems Viability Study Committee in order to submit a written report to the Joint Committee on Government and Finance no later than October 1, 2019, with recommendations regarding:

- The ability of the state’s water and wastewater infrastructure to adequately serve residents and allow utilities to comply with regulatory requirements;
- The use of criteria for classifying a water or wastewater system as “distressed,” and remedies to assist distressed water and wastewater systems including methods to:

- Encourage the transfer, regionalization, or sale of distressed systems with or to non-distressed systems;
- Ensure the most prudent uses of grant funding and low-cost loans in assisting distressed systems;
- Mitigate the rate shock in assisting distressed systems;
- Encourage private investment in distressed systems; and
- Ensure a reasonable balance between expanding service to unserved areas of the state and assisting distressed system.

The committee must also consider data regarding noncompliance and deficiencies of the state's water and wastewater utilities compiled, summarized, or analyzed by the United States Environmental Protection Agency, the West Virginia Department of Environmental Protection, the West Virginia Department of Health and Human Resources Bureau for Public Health, and the Public Service Commission of West Virginia.